

ZB# 93-4

John Pizzo

4-1-11.1

Prelim.

March 8, 1993.

List ordered 3/4/93.

Photos here

App. furnished

Fees paid

Need copies:

① Need ~~it~~ here

② Title to Hwy-Road.

③ Photos here ~~there~~

Notice to Sentinel 3/10/93.

Public Hearing:

March 22, 1993.

Area & Sign

Variances

Denied

~~RECEIVED~~

#93-4- Pizzo, John

O.O. #225-Continentale
Mayor

TOWN OF NEW WINDSOR 555 Union Avenue New Windsor, NY 12550		GENERAL RECEIPT		13207
		<u>March 16</u> 19 <u>93</u>		
Received of <u>John Pizzo</u>		\$ <u>150.00</u>		
<u>One Hundred Fifty</u>		<u>00</u>		DOLLARS
For <u>ZBA #93-4 Application Fee</u>				
DISTRIBUTION:				
FUND	CODE	AMOUNT		
<u>OK B46</u>		<u>150.00</u>		
		By <u>Pauline J. Townsend</u>		
		<u>Town Clerk</u>		
		Title		

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APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT:

Pizzo, John

FILE #

93-4

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE

\$ 150.00

*paid
ck # 1246*

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES

\$ 250.00

*paid ck,
1247.*

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 3/8/93-11 pages . . . \$ 49.50
2ND PRELIM. MEETING - PER PAGE \$ _____
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE 3/22/93-33 pages . . . \$ 148.50
PUBLIC HEARING (CONT'D) PER PAGE \$ _____

TOTAL \$ 198.00

ATTORNEY'S FEES:

PRELIM. MEETING- .7 HRS. \$ _____
2ND PRELIM. _____ HRS. \$ _____
3RD PRELIM. _____ HRS. \$ _____
PUBLIC HEARING .4 HRS. \$ _____
PUBLIC HEARING _____ HRS. (CONT'D) \$ _____
FORMAL DECISION 3.7 HRS. \$ _____

TOTAL HRS. 4.8 @ \$ 150.00 PER HR. \$ 720.00
TOTAL \$ 720.00

MISC. CHARGES:

Postage - 14 letters @ .29. \$ 4.06
TOTAL \$ 922.06

LESS ESCROW DEPOSIT . . . \$ 250.00
(ADDL. CHARGES DUE) . . . \$ 672.06 due
REFUND TO APPLICANT DUE . . . \$ _____



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

October 29, 1993
FAX:914-563-4693

THE CITY OF NEWBURGH
Office of Corporation Counsel
City Hall, 83 Broadway
Newburgh, N. Y. 12550

Attn: William M. Kavanaugh, Esq.

RE: APPLICATION OF JOHN PIZZO - ZBA #93-4
Tax Map Section 4 - Blk. 1 - Lot 11.1

Dear Mr. Kavanaugh:

In accordance with your request of this date, enclosed please find copy of the above Application for a Variance together with the formal decision of the Zoning Board of Appeals dated 5/24/93.

If I can be of further assistance please do not hesitate to contact me.

Very truly yours,

PATRICIA A. BARNHART, Secretary
Zoning Board of Appeals

/pab
Enclosures

-----X
In the Matter of the Application of

JOHN PIZZO,

#93-4.

DECISION
DENYING AREA/
SIGN VARIANCES

-----X
WHEREAS, JOHN PIZZO, of 53 Route 17K, Newburgh, New York, 12550, has made application before the Zoning Board of Appeals for a 20% developmental coverage variance as well as for a 39 s.f. sign area variance in order to construct a professional office building located on a triangular-shaped parcel bounded by NYS Route 300 (Temple Hill Road) and by the two branches of NYS Route 207 (Little Britain Road), New Windsor, New York, in a PO zone; and

WHEREAS, the applicant, JOHN PIZZO, previously submitted to this Board an application for use/area and sign variances under file #89-47, and a public hearing thereon was held on the 23rd day of October, 1989, and subsequently this Board adopted a decision denying use/area and sign variances dated November 13, 1989, on said application, which was predicated upon the then R-4 zoning classification for the same property which is the subject of the instant application (the zoning classification for the subject parcel having been changed to the PO zone by the Town Board of the Town of New Windsor on or about July 16, 1992) and which was further predicated upon former Section 267 of the Town Law of the State of New York, as it was in effect prior to July 1, 1992, and this Board hereby incorporates the record and decision on said prior application herein to the extent that the findings and conclusions therein have not been rendered moot by the subsequent change in the zoning classification from R-4 to PO and by the subsequent amendment of the Town Law of the State of New York, which repealed the said former Section 267, and added in its place new Sections 267, 267-a, 267-b, and 267-c, all effective as of July 1, 1992, and to the extent that the findings and conclusions therein are not inconsistent with the standards applicable upon the instant application for area and sign variances under the aforesaid current zoning classification and applicable sections of the Town Law of the State of New York; and

WHEREAS, a public hearing was held on the 22nd day of March, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant, JOHN PIZZO, appeared with his engineer, Paul V. Cuomo, P.E., of Cuomo Engineering, P.E., both of whom spoke in support of the application; and

WHEREAS, the applicant, JOHN PIZZO, submitted copies of the following documentation in support of his application:

1. Letter, dated September 9, 1987, from Donald Greene, of the State of New York Department of Transportation to Planning

Board, Town of New Windsor;

2. Agreement, dated the 17th day of June, 1992, by and between the Town of New Windsor and John Pizzo;

3. Inter-office correspondence, dated March 16, 1992 from Attorney for Town Seaman, to Town Supervisor Green, Councilman Heft, Councilwoman Fiedelholtz, Councilman Spignardo, and Councilman Finnegan;

4. Letter, dated September 17, 1990, from Carl Scheifer, Chairman, New Windsor Planning Board to Town of New Windsor Town Board;

5. Letter, dated May 14, 1992, by Edwin J. Darling, AICP, of Garling Associates, to Mr. James Petro, Chairman, Town of New Windsor Planning Board;

6. Letter, dated October 10, 1989, by James T. Rapoli, P.E., principal, James T. Rapoli Consultant, Traffic & Transportation Engineering, to Mr. Paul V. Cuomo, P.E.;

7. Letter, dated October 10, 1989, from James T. Rapoli, P.E., principal, James T. Rapoli Consultant, Traffic & Transportation Engineering, to Mr. Daniel J. Bloom;

8. Analysis prepared by the applicant, JOHN PIZZO, concerning projected rental income for the subject parcel and projected positive/negative cash flows from the subject parcel, for a building constructed on the site, if 50% developmental coverage is permitted pursuant to the instant variance application versus a building limited to 30% developmental coverage, pursuant to the maximum permissible in the PO zone without a zoning variance; and

WHEREAS, the public hearing was attended by two spectators, Joe Smith and Michael Smith, who both own an adjacent parcel of real property, located directly across the two-way section of NYS Route 207 from the subject parcel, and both of whom spoke in opposition to the application, to wit, Joe Smith opposed the same because the applicant resubmitted his 1989 traffic study without any updates to reflect changes since the original study (which included both changes in traffic flow, number of traffic accidents and a new "no right turn" sign installed at the traffic light at the corner of the intersection of the two-way section of NYS Route 207 with NYS Route 300) as well as the impact of the applicant's proposed development upon the adjacent Smith site due to the nearly opposed location of the applicant's main entrance driveway with the Smith's existing driveway, and due to drainage problems which currently exist in the area, and which Mr. Smith indicated he had taken great efforts to alleviate at the present time, and which he felt would be exacerbated by the applicant's development and addition of curbing, and in summary, Mr. Smith believed that the adverse effect upon the public health, safety and welfare constituted significant problems which warranted his opposition to the instant application; and Michael Smith opposed the application on the grounds that the high developmental

coverage, in excess of that permitted by the Zoning Local Law, would adversely impact the public health, safety and welfare because it would generate considerably more traffic than would be generated with only the permitted amount, or less, of developmental coverage, and that this aggravation of traffic problems, which already have produced many accidents, was such a severe impact upon safety that he too opposed the instant variance application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that the applicant is seeking permission to vary the provisions of the bulk regulations relating to developmental coverage and to sign area in order to construct a professional office building located on a triangular-shaped parcel bounded by NYS Route 300 (Temple Hill Road) and by the two branches of NYS 207 (Little Britain Road), New Windsor, New York, in a PO zone.

3. The evidence presented by the applicant substantiated the fact that a variance for more than the allowed developmental coverage and more than the allowed sign area would be required in order to allow construction of the proposed office building on the applicant's lot, which otherwise would conform to the bulk regulations in the PO zone.

4. The evidence presented on behalf of the applicant indicated that, following this Board's denial of the applicant's previous variance application, the applicant petitioned the Town Board to change the zoning classification for the subject property from R-4 to PO. While this petition was pending, the Town and the applicant entered into a "Developer's Agreement", dated the 17th day of June, 1992, by the terms of which the town indicated that it was willing to change the zoning as requested by the applicant and that the owner agreed to limit development thereon and comply with certain other requests of the town. The owner agreed in said agreement that the maximum developmental coverage will not exceed 63% of the total parcel area. The owner also agreed that he would be bound by any other conditions of the Zoning Board of Appeals or Planning Board. Ultimately the Town Board did in fact change the zoning classification from R-4 to PO. The maximum developmental coverage permitted in the PO zone is 30%. It is the finding of this Board that the applicant knew, at the time he was pursuing his rezoning petition, that a variance for maximum developmental coverage would be a prerequisite to his development of the site since he was then proposing developmental coverage of 63%. The applicant subsequently revised his proposal for a maximum developmental coverage of 50% and now comes before this Board seeking a variance of 20% developmental coverage as well as a 39 s.f. variance for sign area.

5. It is the finding of this Board, after reviewing the documents submitted by the applicant, that although the applicant agreed with the Town of New Windsor that the maximum developmental coverage will not exceed 63%, the Town Board of the Town of New Windsor did not intend to, and in fact did not, impinge upon the absolute discretion of the Zoning Board of Appeals to grant a developmental coverage variance to the applicant. The granting of a developmental coverage variance is solely within the jurisdiction of the Zoning Board of Appeals. The maximum developmental coverage in the PO zone of 30% was not amended by the Town Board at the time the Town Board passed upon the applicant's rezoning petition. Consequently the Zoning Board of Appeals has considered the instant application solely upon its merits, under the applicable laws. When the applicant appeared before this Board for his preliminary hearing, he indicated that a project with 50% developmental coverage would be cost effective than a project limited to 30% developmental coverage. The applicant further stated that he needed 50% developmental coverage to make the project worth doing. This Board advised the applicant that he should submit numbers to defend his position that he needed 50% developmental coverage in order to make the project economically viable. The applicant indicated that he would provide these numbers at the public hearing.

6. The evidence presented by the applicant at the public hearing concerning this issue consisted of his computation of the respective rental income which he could derive from the property based upon 50% developmental coverage versus 30% developmental coverage. The applicant used these figures to show that the difference in annual income between the two scenarios amounted to an additional annual return of \$22,862. if 50% developmental coverage was permitted. The applicant also indicated that using potential project costs of \$860,000 in the 50% developmental coverage example versus \$810,000 in the 30% developmental coverage example, and applying his projected financing terms, he would realize a positive cash flow of \$1,000 a month if 50% developmental coverage were permitted versus \$400 per month negative cash flow if only 30% developmental coverage were permitted.

7. It is the finding of this Board that the aforesaid economic analysis presented by the applicant is insufficient to demonstrate that the development of the subject parcel, if limited only to 30% developmental coverage, would in reality be uneconomic. The applicant offered no objective data to indicate what a reasonable expected return for this parcel should be, given the current economic climate. The applicant failed to provide the economic data which this Board's prior decision spelled out. The applicant failed to provide details on his cost for the lot and on his proposed building costs. This Board invited the applicant to obtain this relevant economic data and return at an adjourned public hearing to expand upon the proof he submitted at the March 22, 1993 public hearing. The applicant declined to obtain and submit additional data and stated as follows:

"I've given you a preliminary picture as to a

generalization of the circumstances which in my point of view should be adequate to draw a conclusion."

There followed additional discussion between the Board members, the applicant and the applicant's engineer concerning additional data the Board sought from the applicant. Just before the Board entertained a motion on the applicant's variance application, the Board's attorney, Daniel S. Lucia, Esq., asked the applicant if he wanted the opportunity to submit more information. Mr. Pizzo declined and concluded as follows:

"I can take this piece of property, develop it into something productive that we'll all be proud of and with that I'd like to have you nice people vote on your decision, thank you."

Unfortunately the self-serving and unsubstantiated economic data provided by the applicant are not adequate for this Board to draw a conclusion on whether the development of the subject parcel, if limited only to 30% developmental coverage, is in fact uneconomic.

8. This Board notes the concerns of the neighbors regarding the 1989 traffic study, which was not updated for the instant variance application. A review of the October 10, 1989 letter from the applicant's traffic engineer, James T. Rapoli, P.E. to Mr. Daniel J. Bloom, indicates that, as of that date, the traffic impact required some recalculation. If that recalculation was ever performed, it was not submitted to this Board. Specifically, this Board notes with concern that Mr. Rapoli's said letter stated that the traffic impact required recalculation because the square footage was being increased from 8,800 to 10,704. Mr. Rapoli was concerned that the additional volume might reduce the level of service at the NYS Route 207 and NYS Route 300 intersection from level "D" to level "E". It appears from Mr. Pizzo's financial submission that he now proposes construction of some 9,143 s.f. which also represents an increase over the 8,800 s.f. proposed in 1989. Consequently it would appear that the traffic study should have been updated to reflect this increase in square footage and to determine if it would result in additional volume and additional impacts upon traffic. Mr. Pizzo failed to present an update of the traffic study and it is this Board's finding that, given the subject parcel's location, surrounded on all three sides by roads, that traffic impact is a major consideration effecting the public health, safety and welfare in this area.

9. The evidence presented and the Board's familiarity with the area shows that the intersection of NYS Route 300 with the two branches of NYS Route 207, at the subject site, is a heavily traveled and complex intersection. A significant volume of traffic passes by the subject parcel and through the two intersections located at opposite corners of the subject parcel at speeds of approximately 30 to 35 m.p.h. The speed of passing traffic makes entrances and exits from businesses and residences in the area hazardous during times of high traffic volume. It is

the finding of this Board that the location of the entrance driveway to the Smith property directly opposite the proposed location on the applicant's property of his access driveway fronting on the two-way section of NYS Route 207 constitutes a significant adverse impact on the public health, safety and welfare which this Board is unable to overlook without obtaining a much more detailed analysis from an update to the 1989 traffic study of applicant's traffic engineer, James T. Rapoli, P. E.

10. This Board, necessarily, must base its findings upon the evidence which the applicant chose to present at the public hearing. Had the applicant elected to provide additional economic data and/or an update of the traffic study, it is entirely possible that this Board might have made different findings based upon different evidence in the record. However, on this application, this Board is bound by the limited evidence the applicant chose to present to the Board.

11. Given the evidence presented by the applicant, it is the finding of this Board that the variances, if granted, would have a negative impact on the physical or environmental conditions in the neighborhood or zoning district since the applicant's proposed use appears to be too intense for the site and appears to generate off-site impacts which will adversely effect property values in the neighborhood.

12. It is the further finding of this Board that the requested area variances, if granted, will blight the proper and orderly development and general welfare of the community since this Board's familiarity with the area indicates that most of the lots in the neighborhood are not developed to the extent of one-half of their area, as proposed by the applicant.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will produce an undesirable change in the character of the neighborhood and create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefits sought other than the variance procedure.

3. The requested variances are substantial in relation to the bulk regulations.

4. The requested variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is self-created.

6. It is the finding of this Board that the benefit to the applicant, if the requested variances are granted, does not outweigh the detriment to the health, safety and welfare of the

neighborhood or community by such grant.

7. It is the further finding of this Board that the requested variances are not the minimum variances necessary and adequate to allow the applicant relief from the requirements in the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by denying the granting of the requested variances.

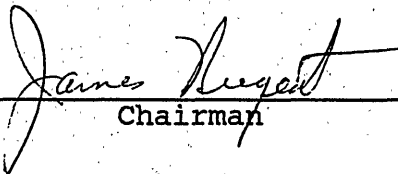
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a 20% developmental coverage variance, and further DENY as moot a 39 s.f. sign area variance, for construction of a professional office building, at the above location in a PO zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: May 24, 1993.


Chairman

(ZBA DISK#8c-052493.jp)

201

STATE OF NEW YORK, COUNTY OF ORANGE

ss:

On the 12 day of November 19 86, before me personally came

MARY MEROSHNEKOFF

to me known to be the individual described in and who executed the foregoing instrument and acknowledged that she executed the same.

Notary Public

ALFRED F. CAVALARI
Notary Public in the State of New York
Residing in and for Orange County
Commission expires March 30, 1987

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

Title No.

SECTION

BLOCK

LOT

COUNTY OR TOWN

TO

Recorded at Request of COMMONWEALTH LAND
TITLE INSURANCE COMPANY

RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by



COMMONWEALTH LAND
TITLE INSURANCE COMPANY
A Reliance Group Holdings Company

ANDREW P. BIVONA

ATTORNEY AT LAW

10 SOUTH PLANK ROAD

P. O. BOX 2636

NEWBURGH, NEW YORK 12550

180-
141-
J. P. Bivona

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT — THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

066333

THIS INDENTURE, made the 12 day of November, nineteen hundred and eighty-six
BETWEEN MARY MEROSHNEKOFF, 7 Sniffen Road, Westport, Connecticut 06880

party of the first part, and JOHN PIZZO, 31 Dogwood Hills Road, Newburgh NY 12550

party of the second part,
WITNESSETH, that the party of the first part, in consideration of

TEN AND NO/100(\$10.00)-----

dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors
and assigns of the party of the second part forever,

4-1-11.1

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and
being in the Town of New Windsor, Orange County, New York being triangular in
shape and bounded on the north by the present New York State Route 207 on the
southeast by Old Route 207 (Old Little Britain Road) and on the southwest
by Temple Hill Road. Together with all the right, title and interest of
the party of the first part, if any, of, in and to Old Route 207 to the
center line thereof.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

14

March 9, 1993

Paul Cuomo
Stewart Airport
Building 704
New Windsor, NY 12553

Re: Tax Map Parcel: 4-1-11.1
Owner: John Pizzo

Dear Mr. Cuomo:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00. Please remit the balance of \$10.00 to the Town Clerk's office.

Sincerely,

Leslie Cook / (CD)

Leslie Cook
SOLE ASSESSOR

LC/cad
Attachments
cc: Pat Barnhart

City of Newburgh, The
c/o City Comptroller, City Hall
Newburgh, NY 12550

J & H Smith Light Corp.
PO Box 1449
Newburgh, NY 12550

HZ Development Partners
Gateway International Park
Wembly Rd.
New Windsor, NY 12553

Sloan, Warren Jr.
PO Box 4545
New Windsor, NY 12553

Duggan & Crotty Temple Hill Co.
343-345 Temple Hill Rd.
New Windsor, NY 12553

Freedom Road Realty Associates
335 Temple Hill Rd.
New Windsor, NY 12553

Helmer, William F.
Grey Beech Lane
Pomona, NY 10970

Rossi, Olympia
52 Balmville Rd.
Newburgh, NY 12550

Angeloni, Americo & Rose
326 Temple Hill Rd.
New Windsor, NY 12553

Lewin, Joseph
16 Catalpa Rd.
Newburgh, NY 12550

Amodeo, Anthony & Laura
29 Birdsall Ave.
Marlboro, NY 12542

Ronsini Jr., Nicholas A. & Juanita
322 A Temple Hill Rd.
New Windsor, NY 12553

Ronsini Sr., Nicholas A. & Rose
322 Temple Hill Rd.
New Windsor, NY 12553

Lewin, Joseph
12 Catalpa Rd.
Newburgh, NY 12550

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

93-4

Date: 03/08/93

I. Applicant Information:

- (a) JOHN PIZZO, 53 Route 17K, Newburgh, N. Y. 12550 x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) Anthony Austria, Esq., 158 Orange Avenue, Walden, N. Y. 12586
(Name, address and phone of attorney)
- (d) PAUL V. CUOMO, P. E., Stewart Intl. Airport, New Windsor, N.Y. 12553
(Name, address and phone of ~~contractor~~/engineer/~~architect~~)

II. Application type:

- () Use Variance () Sign Variance
(x) Area Variance () Interpretation

III. Property Information:

- (a) PO Northside NYS Rt. 300/Rt. 207 Inters. 4-1-11.1 34,873 s.f. +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? PI/OLI
- (c) Is a pending sale or lease subject to ZBA approval of this application? No.
- (d) When was property purchased by present owner? 11/20/86.
- (e) Has property been subdivided previously? No.
- (f) Has property been subject of variance previously? Yes.
If so, when? 11/89-Denied Use.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A
- _____

_____.

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____

_____.

N/A

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. L.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
Reqd. Rear Yd.		
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* <u>30</u> %	<u>50</u> %	<u>20</u> %
Floor Area Ratio**		
Parking Area		

* Residential Districts only

** No-residential districts only

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application. (See attached recitation).

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. N.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1 -Freestanding	<u>10 s.f.</u>	<u>49 s.f.</u>	<u>39 s.f.</u>
Sign 2			
Sign 3			
Sign 4			

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

A 49 s.f., double-faced freestanding sign is proposed. This area includes both sides. The sign will be impressive with the name of the complex at the top portion of the sign. The lower section of the sign will describe the offices contained within the professional building.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

Total signage: 49 s.f. for freestanding sign.

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Applicant intends to construct a professional office building which will conform to the triangular configuration of the parcel. There will be enough parking on the premises and the location of the ornamental trees and shrubbery will be placed on the property in such a way so as to avoid any interference with sight distance for vehicles traveling along Route 207. (See annexed copy of agreement dated 6/17/92 for further details).

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- x Copy of tax map showing adjacent properties.
- n/a Copy of contract of sale, lease or franchise agreement.
- x Copy of deed and title policy.
- x Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- x Copy(ies) of sign(s) with dimensions and location.
- x Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$250.00, each payable to the TOWN OF NEW WINDSOR.
- x Photographs of existing premises from several angles.

X. Affidavit.

Date: 03/08/93

STATE OF NEW YORK.)

SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

By: John Pizzo

Sworn to before me this

19th day of March, 1993.

Patricia C. Banhart

XI. ZBA Action:

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1993.

(a) Public Hearing date: _____

(b) Variance: Granted () Denied ()

(c) Restrictions or conditions:

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA: DISK#7-080991.AP)

APPLICATION FOR AREA/SIGN VARIANCES-JOHN PIZZO
#93-4.

On July 16, 1992, the applicant was successful in obtaining a zone change from R-4, single-family residential, to PO, professional office. This change was made after the New Windsor Planning Board conferred with a planning consultant and an investigation revealed that since the parcel was located adjacent to PI, planned industrial, and OLI, office and light industry, the bulk regulations for those particular zones were inconsistent with the parcel owned by applicant. The New Windsor Planning Board then recommended to the Town Board that the parcel be rezoned from R-4 to PO, which is professional office. An environmental assessment form was filed with the Town Board at the time of the public hearing. When considering the petition for a zone change, the Town Board took into consideration the fact that a single-family dwelling was not conducive to this area of town because of the fact that the parcel is surrounded by major highways in the town, including Route 207, Route 300 and Little Britain Road.

At the time the public hearing was held, applicant executed a developer's agreement pending the zone change, with the Town of New Windsor, copy of which is annexed hereto, which sets forth the criteria and restrictions which the applicant has to adhere to when developing the parcel. The developer's agreement was very specific in stating that the variance for maximum developmental coverage which would have to be sought by the applicant could not exceed 63% of the total parcel area. Applicant is now requesting a variance of only 20% of developmental coverage which is well within the maximum amount set forth by the Town Board in its agreement with the applicant.

Applicant is also seeking a minimum amount of 49 s.f. for a freestanding, double-faced sign. The requirement in this zone is 10 s.f., thereby causing applicant to seek a 39 s.f. sign variance. The sign will be small and unobtrusive and will not interfere with sight distances for vehicles traveling along the adjacent highway.

Applicant feels very strongly that the granting of the variances will not be detrimental to the health, safety or welfare of the neighborhood or community since the property is located in a mostly commercial neighborhood and intersects major highways.

The only feasible method which applicant can pursue is the variance process in view of the fact that the parcel is zoned for professional office and applicant's parcel contains 34,873 s.f. of space, somewhat restricting the size of the building which can be constructed, and keeping within the minimum area of developmental coverage. If applicant were to scale down the size of the building in order to conform to the regulations concerning developmental coverage, it would not be feasible for applicant to construct such a building.

Applicant feels that this request is not substantial when considering the size and configuration of the parcel. Many preliminary meetings were held with the Zoning Board of Appeals and it was at their suggestion that applicant decided to design a building which would conform to the shape of the parcel and at the same time be an asset to the town and the nearby Stewart Airport complex.

Since this parcel can only be developed for professional office use, applicant feels that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

The difficulties stated above are the result of a self-created hardship on the part of the applicant. However, applicant is willing to and is seeking the necessary approvals in order to conform to the bulk regulations in the PO zone.

THIS AGREEMENT made the 17th day of June, 1992 by and between the TOWN OF NEW WINDSOR, a municipal corporation having its principal place of business at 555 Union Avenue, New Windsor, New York, 12553, hereinafter referred to as "TOWN", and JOHN PIZZO, Route 17K-53, Newburgh, New York, 12550, hereinafter referred to as "OWNER".

W I T N E S S E T H :

WHEREAS, JOHN PIZZO is the owner of New Windsor tax parcel known and designated as Section 4 - Block 1 - Lot 11.1; and

WHEREAS, OWNER has petitioned the TOWN to change the zoning from R-4 (single-family residential) to PO (professional office); and

WHEREAS, the TOWN is willing to change the zoning of the aforesaid parcel provided certain restrictions are agreed upon to limit the amount of development on the said parcel; and

WHEREAS, OWNER agrees to limit the development and comply with other requests of the TOWN.

IT IS HEREBY AGREED AS FOLLOWS:

1. OWNER shall grant an easement to the TOWN on the westerly end of the subject parcel that is triangular in shape, approximately 110 ft. in length and approximately 70 ft. wide at the easterly side of the triangle. This easement will grant to the TOWN the right to place monuments, flags or any other items that are deemed appropriate for community purposes, all structures to be in the sole discretion of the Town Board.

2. OWNER, at his own cost and expense, agrees to construct a large flagpole to be placed on the property.

3. OWNER agrees to install a 110 volt electric line out to the parcel and install lighting for the flag and will allow for future lighting of any monuments that are erected on the premises and this shall be accomplished at OWNER'S cost and expense.

4. OWNER agrees that it will be his responsibility to maintain the easement area and shall also maintain all of the lands that are on state right-of-way areas. OWNER agrees to maintain all lawns and gardens on the parcel in a neat, well-trimmed condition and not allow the grass to exceed six (6) inches in length.

5. OWNER agrees that the proposed building height and location of the shrubbery on the premises will be placed on the property in such a way so as to avoid any interference with sight distance for vehicles traveling in a westerly direction on Route 207 to the point of its intersection with Route 300.

6. OWNER agrees that the maximum developmental coverage will not exceed 63% of the total parcel area.

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County

Rec'd.
ZBA/TA office
4/13/93 (11/13)

APRIL 9, 1993

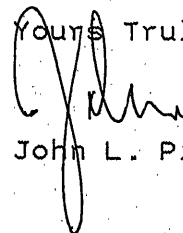
Mr. John L. Pizzo
John Pizzo Enterprises
Time Plaza
Rt. 17K-53
Newburgh, New York 12550

Mr. Tad Seaman, Attorney
555 Union Ave.
New Windsor, New York 12553

Dear Mr. Seaman:

I have enclosed a copy of a letter that I have addressed to the Zoning Board Of Appeals for your purposes. In consideration to its content, I am hopeful that you will exercise your opinion in support for my request as stated.

Yours Truly,



John L. Pizzo

Enc.

John L. Pizzo
John L. Pizzo Enterprises
Time Plaza 17K 53
Newburgh, New York 12550
April 9, 1993

Mr. James Nugent, Chairman
555 Union Avenue
New Windsor, New York 12553

Dear Mr. Nugent,

To say the least, I am displeased with the Zoning Board of Appeal's decision to deny my request for a twenty percent area variance. I feel the information I provided with documents and verbal explanation should have been adequate. I addressed in my presentation the fact that my proposed project would not impact the neighborhood negatively and would not have adversely jeopardized the health, safety and welfare of the community.

Beyond that, I presented each board member with a copy of financial facts that I thought were significant to the project.

The illustration of fifty percent construction with probable rental amount per square foot illustrating annual income then resulting in monthly income.

And then the financial scenario of thirty percent construction again using rental square footage resulting in income from that annually and then monthly.

Then I showed for points of interest potential income that would derive from fifty percent construction versus the scenario of thirty percent construction.

I then continued by maintaining a cost construction of for fifty percent in light a probable mortgage rate and showed a result of a positive cash flow.

Then illustrating the same scenario on thirty percent area construction indicating a deficit.

I also revealed to the Zoning board members the to-date investment I have in the raw land.

I also made a point of discussing costs of construction in today's market in today's with its relationship to the cost of doing this project.

What other financial information could there possibly be beyond this that could support the practical difficulty?

After the vote was declared three against and two for, I maintain to the Zoning Board that I felt it acted in an improper manner. Should Mr. Tanner have conveyed publicly at a public hearing on July 15, 1992, that he felt it is a poor site for an office building mainly because of the traffic generated an office building is going to generate more traffic and even to homes on that site? Is it proper as he states that the town is going to have real problems if that site is changed to professional offices?

In consideration of these statements, do you think this man should be to sit in judgement of my proposed office building and keeping with an open minded attitude when he already stated that he opposes the office building? With a positive vote from Mr. Tanner this project would be moving forward. It also appears that the lot development agreement that was made with the Town Board was given little consideration.

At the Town Board Meeting as where the zone was changed, Mr. Tanner declared his opposition, a Co-ZBA Board Member named Mr. Dan Konkell, also voiced strong opposition for my proposed office building and/or zoning. Mr. Konkell previously sat in judgement with the ZBA on several occasions as where I had requested a use variance. Mr. Konkell had at a point interest in purchasing this property for himself as was told to me by the realtor and stated by Mr. Konkell himself at a ZBA meeting where he revealed that he had at that time had interest in this parcel of land. He did not succeed in his pursuit to obtain it.

Again, does this individual appear to be one that should sit in judgement as to how that property could be used by someone else in all fairness? Are there appearances here of impropriety when you consider these town officials are in a judgmental capacity representing the townspeople in the townspeople's interest?

I am not sure whether legal action for damages are in order. What I am sure of is that in my pursuing this direction, animosity would escalate and there would be financial consequences, publicity, to be endured. I would prefer to move more in a positive direction that could end in an amicable conclusion.

I would like to request that the defeating decision be overturned or another viable option to allow this project to go forward. I am hopeful that you will be receptive to this request and also share the position that this is a fair course to take in consideration to the current circumstance and alternatives.

Yours Truly,

John L. Pizzo

x

Rec'd.
TA office 4/29/93
(PAB)

Pizzo
file
ZBA

April 9, 1993

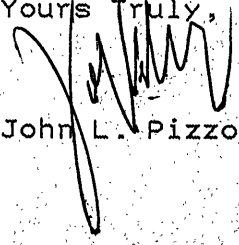
Mr. John L. Pizzo
John Pizzo Enterprises
Time Plaza
Rt. 17K-53
Newburgh, New York 12550

Mr. Tad Seaman, Attorney
555 Union Avenue
New Windsor, New York 12553

Dear Mr. Seaman:

Concerning the developmental coverage and agreement given the town rights to use portion of the land; At this point, with the Zoning Board Of Appeals refusing to allow me to use even 1% more then the 30% allowed in P.O. zone resulting in the denial of my proposed project, I do not feel I should be bound by this agreement. The agreements intentions were not satisfied.

Please response to my position.

Yours Truly,

John L. Pizzo



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

Date: May 25, 1993
FAX: 914-563-4693

RE: ZONING BOARD OF APPEALS - APPLICATION # 93-4

Dear ZBA Applicant:

After computation of the consulting fees that were posted with your application before the Zoning Board of Appeals, the Board found that there are additional fees due and owing in the amount of \$ 679.06. (A copy of the computation list is attached).

In order to obtain a copy of your formal decision, this amount will have to be paid immediately.

Please forward a check in the above amount and I will be happy to furnish an executed copy of the formal decision.

Very truly yours,

PATRICIA A. BARNHART, Secretary
Zoning Board of Appeals

/pab

Attachment

(ZBA DISK#7-031292.FEE)

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT:

Pizzo, John
53 Route 17K
Newburgh, N.Y. 12550

FILE # 93-4

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE

\$ 150.00 paid
 ck # 1246

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES

\$ 250.00

Paid ck.
 # 1247

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 3/8/93-11 pages . . . \$ 49.50
 2ND PRELIM. MEETING - PER PAGE . . . \$ _____
 3RD PRELIM. MEETING - PER PAGE . . . \$ _____
 PUBLIC HEARING - PER PAGE 3/22/93-33 pages . . . \$ 148.50
 PUBLIC HEARING (CONT'D) PER PAGE . . . \$ _____
 TOTAL \$ 198.00

ATTORNEY'S FEES:

PRELIM. MEETING-	<u>.7</u>	HRS.	\$	_____
2ND PRELIM.	_____	HRS.	\$	_____
3RD PRELIM.	_____	HRS.	\$	_____
PUBLIC HEARING	<u>.4</u>	HRS.	\$	_____
PUBLIC HEARING	_____	HRS. (CONT'D)	\$	_____
FORMAL DECISION	<u>3.7</u>	HRS.	\$	_____

TOTAL HRS. 4.8 @ \$ 150.00 PER HR. \$ 720.00
 TOTAL \$ 720.00

MISC. CHARGES:

Postage - 14 letters @ .29 \$ 4.06
 TOTAL \$ 922.06

LESS ESCROW DEPOSIT . . . \$ 250.00
 (ADDL. CHARGES DUE) . . . \$ 672.06 due
 REFUND TO APPLICANT DUE . \$ _____

Date4/1/93....., 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO ..Frances Roth 389 Moores Hill Rd DR.
New Windsor Ny 12553.....

DATE			CLAIMED	ALLOWED
3/23/93		Zoning Board Meeting	75 00	
		Misc -2		
		Harris -6 27.00.		
		Prudential -4 18.00		
		American Felt -10 45.00.		
		Apache -24 108.00.		
		Pizza -32 148.50.		
		Benmar -15 67.50		
		94	423 00	
			498 00	

March 22, 1993

46

PIZZO, JOHN

MR. NUGENT: Request for 20% developmental coverage and 39 s. f. sign area variance for construction of professional building to be located on Temple Hill Road in a PO zone.

Mr. John Pizzo and Paul Cuomo appeared before the board regarding this proposal.

MR. PIZZO: Good evening, for the record, my name is John Pizzo and I'm the owner of a parcel of land in New Windsor at Routes 32 and 207. I'm here this evening to request a variance for development lot coverage, the legal standard for this area variance is practical difficulty. Proposed office building requires 50 percent lot coverage, the present zoning PO, professional offices, allows for 30 percent. Therefore, we are here before this board this evening to request a 20 percent variance. I'd like to think that this office building will contribute positively in enhancing this very visible area. The lighting that is going to be attached to the building should add charm and the extensive shrubbery should be a positive aesthetic factor in enhancing the project. This project could be very financially viable project with 50 percent lot coverage versus 30 percent that the PO zoning would allow. At our last preliminary meeting, Mr. Torley I believe had suggested or requested that I furnish you gentlemen with some facts regarding dollars and cents so I have this here for you to take a look at. This is for purposes of just giving you an idea of the monetary aspects of the project. Fifty percent on top, 7,863 square feet projected rental \$12.50 annually \$98,287. Monthly roughly \$8,200. Just going down 30 percent, 6,034 square feet, \$12.50 a year, 7,500, \$20 monthly approximately \$6,300. You have a difference of \$22,862 annually and in a ten year period we're talking about total \$228,000. Beyond that, based on the potential cost of the project, 50% being \$860, 15 years 9 percent, \$7,200 monthly payment based on 7,800 square feet, we have a plus thousand dollar positive cash flow. Thirty percent overcast will be saving \$50,000 for construction, 15 years, \$810,000, \$6,600 a month, 15 year balloon type payment and we have got a deficit

of \$400 a month. And beyond that, with the 7,800 square feet or the 50% that also will allow a cushion in the event that you have some kind of a vacancy rate. I'd like to review certain information if I could. I had many preliminary meetings with this board. One public hearing where we were trying to obtain a use variance and we had failed. Obviously, we couldn't prove our hardship was hard enough. But, constructively through several of those meetings, we were asked to change the shape of the building for this other original presentation we had a rectangular shaped building so it was thought of that perhaps to design a building that would fit the configuration of the lot would be a step more in the right direction. With that and based on feeling of attitudes, we reduced the building again to or from that original 10,000 square feet to what we have now in our presentation. Beyond that, to support the presence of a building of this sort, I had a traffic study done by a gentleman called Jim Rapoli, who's a traffic engineer, that is exclusively what his business is and he did a 20 page, I'm sorry, 100 page traffic study in October of '89 as his final feeling was that based on the analysis results considered in any professional opinion the existing levels of the adjacent roadways will not be adversely impacted by the project. Essentially, they'll remain the same. As you can see in this drawing, Route 207 would probably be and obviously the most heavily traffic area and based on the way we have our entrance/egress, all the activity in entering the property and leaving the property is away from all the heavy traffic factors. Beyond that, I wanted to make a note that we had the DOT do their evaluation and as a result of the Department of Transportation I believe I had given you gentlemen documents regarding that, there was no objection to the project as they saw it. Another point I'd like to mention would be the agreement that was made with me with the Town Board when we had our zoning change. And again, that was where I would grant the Town the use or easement in this area of the project for flag poles, monuments and I would also maintain that where they would stand behind and up to 63 percent lot coverage. Again, as I mentioned before, this is a New Windsor board issue and I'm sure you'll deal with that issue as you properly

see fit. I understand that your board has to give strong consideration in allowing this variance to have the character of the neighborhood would be affected and you have to give strong consideration to the health and safety of the community. I believe that based on the traffic study, our proposed use being an office project, that by nature, is restrictive when you also project a benefit that comes to mind where approximately after 5 o'clock, the lot is vacated, there's no cars entering and exiting on Saturdays and Sundays, there will be no activity on that premises. I think all of that appears to indicate that having that office building there would not be any imposition to the community. Now, I have with me my engineer, Paul Cuomo, who will be glad to answer any questions regarding the engineering aspects or any other questions that you may have.

MR. NUGENT: I have one question, I'm looking at the drawing that is in front of me and I understand that some of these trees that are being left on the property are existing and you're going to keep them. There's a lot of trees on the property according to the picture, what happens in this area along here and this area along here, are all those trees going to be removed?

MR. PIZZO: I would say all trees are going to be removed and then be shrubbery planted around the entire parameter will be all low shrubbery.

MR. NUGENT: What protects someone for example that loses a wheel say at the light and to come careening into your parking lot.

MR. PIZZO: You'd have a 6 inch curb around the property and then you'd have shrubbery in front of that.

MR. NUGENT: These would be the only two curb cuts back here?

MR. PIZZO: That is correct.

MR. CUOMO: This is State property, we're sure that they would cooperate with us if we planted anything

there. We would be willing to I think John, right, you're going to seed this and grass this area?

MR. NUGENT: If you are talking about the right-of-way from New York State.

MR. CUOMO: Right, this is their property. Right now it's wooded.

MR. TORLEY: If that is their property, how are you going to take down their trees?

MR. CUOMO: No, they have no objection to the project, we presented this project to them showing that we were going to take down the trees and they gave us no objection.

MR. LANGANKE: Does that have sewer and water?

MR. PIZZO: It does. I'd like to make another point if I could. I'm not certain about how one's attitude should be towards neighbors when one is going to either build or buy property. But I was concerned about neighborhood and I personally called all of the neighbors to ask them how they felt about the project particularly I made a point of visiting the Smith family on at least two or three occasions and with that, I had given them a set of plans, showed them an actual physical model of the project that was going to be built so that they'd have an idea of how it would affect their individual circumstances. And there's no question that Jim Rapoli, the traffic engineer, has to remain accountable for his traffic study just like if you hired an engineer to do your roof and the roof caves in, it's got to be his responsibility. This is not a realtor, Mr. Rapoli is not a realtor, it's not his feeling about the traffic or conditions, it's his determination based on weeks, a lot of time, a lot of car counting and a lot of effort to draw the conclusion that having that building there, that project, even in consideration to the J & H Smith Lighting building that it would be satisfactory to the community.

MR. LUCIA: 100 page Rapoli traffic study I assume is the one that you submitted to this board back in 1989

in connection with your use area variance that we have? At the Preliminary Hearing, I think Mr. Cuomo indicated that may have been updated. Has it in fact been updated?

MR. PIZZO: It was updated once.

MR. LUCIA: This board I do not believe has ever seen any updates. So I would request that you submit those.

MR. PIZZO: On October of '89 was the update. I recall some questions from the board with notations with the development of Stewart how then would this property be affected and I can recall very clearly and I'm sure it would be a matter of record of him stating based on the structure of the entrance and exit as to where it is in relationship to other roadways that there would not be any noticeable impact.

MR. LUCIA: We certainly have everything you submitted with the current application. My question is if there's anything more recent, it should be submitted tonight.

MR. CUOMO: That is the update.

MR. LUCIA: Paul had handed us a letter dated October 10 of 1989 from James Rapoli, there's nothing more recent than that.

MR. PIZZO: No, there isn't.

MR. LUCIA: Thank you.

MR. LANGANKE: Were all the studies you had done on the traffic flow just in reading through the application, I notice that the Smith concern had some questions about the traffic flow. Have they been satisfied?

MR. PIZZO: I'm not certain as to whether they are satisfied. I could definitely appreciate the concern because one knows how conditions are and we don't know how conditions are going to be with the presence of a new project. I don't believe that there will be any

negative impact, perhaps in realism, if the Smiths put an addition on their building or required such that could possibly, my building could possibly create negative ramifications based on those set of conditions but with this building and with the situation as it is now, I don't believe there would be a problem.

MR. LUCIA: Maybe Paul can fill in the gaps since we're dealing with the 1989 Rapoli traffic study, the plan has been revised since then but the building is approximately the same size or a little smaller.

MR. CUOMO: Smaller.

MR. LUCIA: The parking is less than the previous proposal.

MR. CUOMO: Yes, but the previous proposal was a hybrid of variance zonings that we had put together and we had a residential zone so we had no precedent for the amount of parking to have in a residential zone for a commercial building for an office building.

MR. LUCIA: How about the curb cuts, have they changed from the proposal?

MR. CUOMO: The cuts, the only thing these reflect though is the traffic update, the update said that it's only one way out of here. In other words, you can't have a two way, you have to have a one way along 207 that is basically the gist of the update.

MR. LUCIA: So you have reflected Rapoli's suggestions in that?

MR. CUOMO: Yes. This is our sign we're changing to Windsor Triangle, somebody has Windsor Square so we changed it to Triangle.

MR. BABCOCK: We updated the denial at the last meeting to include that sign and it should be on the agenda as we're speaking today.

MR. CUOMO: Unfortunately, I was away, not out of the country, out of the state.

MR. BABCOCK: They are asking for 39 square foot variance for the sign.

MR. CUOMO: The sign will be exactly as this one here, two sides, this is 8 by 3 1/2 feet and it will be situated right along the bottom here, along Route 300. It will be a very tasteful sort of a colonial style sign.

MR. LUCIA: Thank you for providing copy of the deed. I didn't see title policy. Did you retain a title policy on the property?

MR. PIZZO: If I am not mistaken, I thought I had given that to the secretary.

MR. LUCIA: Deed is there but I didn't see a title policy.

MR. PIZZO: It was two pieces of paper I had given you.

MR. LUCIA: I assume the property is subject to covenants, restrictions, agreements of record. Is there anything affecting the title to the property that would prevent you from building this if a variance is granted?

MR. PIZZO: No, there's not.

MR. LUCIA: Practical difficulty that is actually the old standard is now a balancing test, I just want to ask you a couple of specific questions if I can on the relevant factors. Do you feel undesirable change will be proposed in the character of the neighborhood or detriment to nearby properties created by granting this variance?

MR. PIZZO: I don't believe so.

MR. LUCIA: Is the benefit which you seek achievable buy some other method feasible for you to pursue other than a variance?

MR. PIZZO: I don't believe so.

MR. LUCIA: Is the requested area variance substantial that is in terms of numbers?

MR. PIZZO: Yes.

MR. LUCIA: And your justification for it is that you have this agreement with the Town Board and you feel it's appropriate to the site, is that what you're telling this board?

MR. PIZZO: Yes, I am.

MR. LUCIA: Will the proposed variance have an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

MR. PIZZO: No.

MR. LUCIA: And is this difficulty self-created?

MR. PIZZO: I guess it would be, yes.

MR. LUCIA: By virtue of your having acquired this parcel completely bounded by roads?

MR. PIZZO: It's practical difficulty based on the configuration of the land.

MR. LUCIA: And you're doing what you can to obtain relief from that self-created problem, I take it?

MR. PIZZO: Yes, I am.

MR. LUCIA: Thank you.

MR. NUGENT: Anymore comments from the board? At this time, I'd like to open it up to the public. State your name and address.

MR. JOE SMITH: I'm from J & H. Smith Lighting Corporation, I'd like just to address a couple things like I did back in 1989. Again I'm not an expert at this, you people are the experts but I have a couple of concerns that I asked last time. On this particular

project, we weren't consulted, we got the notice in the mail and I'm just here to make some observations and to give our perspective to the board. First of all, the traffic study that was done back in 1989 apparently is still 1989 from what I can determine and I have a question about the effect of the monument configuration. I'm all for this type of thing, it's in the right place but I was wondering we're contiguous to this property and we've seen a lot of accidents, I was wondering if the board in its wisdom would and whether that is the Planning Board or this board, takes this into consideration, in effect the applicant has in his traffic study, I don't know if that has been done.

MR. LUCIA: Probably not, it's a 1989 traffic study.

MR. JOE SMITH: Just a question because I don't know about this, this is new as opposed to 1989. That is one question that I would like addressed. Number 2, I still can't get any answers on this, there's a sign here for no right turn, I don't know if they are aware of this but you cannot make a right turn here and there is striping over here I guess which would denote illegal area for turns.

MR. PIZZO: What would be the difficulty, give me that scenario. It has nothing to do with the operations.

MR. JOE SMITH: I'm not asking you, I'm asking the board and traffic experts if that is a problem because it is a problem now.

MR. NUGENT: I don't know what you're asking.

MR. JOE SMITH: I'll ask the question again. Given this scenario that is here now, will that affect that sign and this new monument configuration?

MR. LUCIA: Are you saying the sign was installed more recently than 1989?

MR. JOE SMITH: I don't now but it's a relatively new sign.

MR. LUCIA: If the sign is subsequent to the traffic

study, I'm sure it was not considered.

MR. JOE SMITH: I asked the question of the Town Attorney, he doesn't know the answer and he said it was something that was, had some bearing on this, the finality of this. It's a small point but I'd like to make it for the record.

MR. LUCIA: I'm just trying to determine where your going.

MR. JOE SMITH: Because there are accidents that occur here and there's accidents that occur here and in fact we've had vehicles run into our lot which is a long way from this area so all of these things when you add them all up bother me. Now, another thing has been mentioned is curbing, that again is new to me tonight, curbing, would this be enclosed by curbs the entire area?

MR. PIZZO: Yes.

MR. JOE SMITH: When we had the Department of Transportation put in the curb in front of our property, which was a relatively expensive item, we also wanted to put a curbing in here to make it aesthetically pleasing. We were told that no uncertain terms by the DOT that it wouldn't be practical that it would cause severe problems. Now, again, you're the experts, I bring these things to your attention because I know you'll make the right decision about it but what affect will this curbing have on water flow in and around this area? Again, it's a question I certainly don't know the answer. I know the traffic pattern answer, I don't know the answer on the curbing but it's something that again bothers me because there's a lot of water that flows behind our property that comes out of here across this property and down into our property and we've got the problem solved now but that is why we didn't put the curb in. Also, during the construction of this project, since we've had so many problems in this area already, I would like I think it should be a consideration that during this construction, there's going to be more safety problems occurring with the use of equipment et cetera and I'm also worried about that.

I feel with this configuration again as a total layman, it's a real safety problem combined with our exit which I think is right here, I can't tell because it's not on here again maybe this is not the purview of your board, maybe it's the Planning Board but these are things that apparently were considered the last time I came before the board and there was discussion on all of these points during the hearing. So, there's probably other things but that is the flavor of what our company is trying to guard against, we're not against any progress, we're not against any project, we just would like to have these concerns or I would like to have these concerns discussed in the proper channels.

MR. NUGENT: I can answer some of your questions, I don't think I can answer them all but in regards to the monument that was something that was done between the Town Board and the owner of the property, we really had nothing to say or do about it, the monument, it's location. The curb cuts that they recommended were what was recommended by the traffic study done in 1989. there's been as far as I know, no updated traffic study. The curbing around the entire piece of property is new to me also, this night is the first time I've heard it.

MR. JOE SMITH: It's serious to me.

MR. NUGENT: I don't know what that is going to cause as far as water runoff but again, as we told the previous applicant, that is not our bailiwick, it's drainage. Basically, what we're involved with here at this point is a 20 percent developmental coverage and 39 foot square sign variance, that is it, period. I mean I understand you have a lot of concerns and rightly so but I think they have to be addressed by the Planning Board. I don't mean to sluff you off we're not doing that but to the best of my knowledge, that is to bring you up to date, that is where all this originated.

MR. BABCOCK: Maybe I can clear up something. I think we should go back to the applicant and ask the question I do not believe that the entire piece of property is going to be curbed, I think the parking areas are going

to be curbed only.

MR. CUOMO: That is correct.

MR. BABCOCK: Only according to this plan.

MR. CUOMO: According to New Windsor standards is the parking area, in other words, the curbing would be--

MR. BABCOCK: Just along the parking areas.

MR. NUGENT: That was the question I had asked earlier.

MR. PIZZO: I guess that would be an issue that would be addressed by the Planning Board also traffic would be dealt with.

MR. BABCOCK: Not only an issue, it's going to be an issue for the DOT, this is completely surrounded by the State Department of Transportation roads, they are not going to accept it without curbs as far as parking areas because they don't want people pulling in and out of properties. They want it directed to the flow that is why the curbings are put there to direct the flow so that where a car is parked they are not pulling in and out of an intersection so this is going to be reviewed by the Department of Transportation and accepted by them if it is, they are not going to build it that way.

MR. JOE SMITH: And I respect that it's just that it when the Department of Transportation came to our site they were adamantly opposed to us putting a curb there on our property which we wanted to do so it's incongruous that they would do this but then again, all these things seem trivial but when you add them all up, it concerns us.

MR. LUCIA: You're free to bring to it to the DOT, raise your concerns.

MR. CUOMO: There's no parking here isn't this all lawn where you were talking about, lawn area now, our lawn area we wouldn't have a curb.

MR. JOE SMITH: So my question again is where is the

water going to go?

MR. CUOMO: Well, we'll figure that out like the other fellas when we go before the Planning Board and that will be a lengthy study, I'm sure I've had to do some studies on that.

MR. BABCOCK: Has the DOT looked at this lane yet?

MR. CUOMO: Yes, they have no objection.

MR. TANNER: There are catch basins or just swales?

MR. JOE SMITH: The water goes into a swale now, the way it is configured and believe it or not again a lot went into that, it doesn't look like much but we worked in conjunction with the State to try and solve that problem. We wouldn't want that now to be disturbed and again you're the experts, we are not.

MR. CUOMO: Well, the State certainly will guide us on that.

MR. BABCOCK: The State is going to determine that.

MR. CUOMO: Planning Board won't approve our plan unless we get final State approval.

MR. TANNER: That is a very valid point to bring out at the Planning Board, drainage, because they are not going to want to see a problem in that area either is DOT because they are going to have deal with it.

MR. JOE SMITH: Significant as that problem is, I don't want to deter from my main problem which according to the meeting of 1989 the rejection was because of safety and welfare, that is my main problem with this both in the construction phase which I think is critical and also when it's completed. Questions come to mind as is what happens if a truck goes into this configuration, does it, there's just so many questions, I don't want to take all your time, I know we're all busy but we wouldn't be here and he wouldn't be here if we didn't think these things are significant and they bother us because no one has talked to us about any of these

problems I've brought up tonight and 1989 traffic study that was very nice, I saw the study, it was about this thick but this is 1993, the airport's changed, there's just so many things.

MR. PIZZO: Matter of fact, there's been some news that there's been a lot less traffic from airport activity in the actual network of the ways going in and out of this project are off that beaten path and no one can see the unforeseeable.

MR. TANNER: I think it might be worth your while to address a letter to the DOT at this point and express some of those concerns because if you are talking about cars coming on to the site and so forth, and you have experience of having seen that, that is something that you need to make them aware of.

MR. JOE SMITH: What I am getting at and when Mr. Pizzo says you can't see the unforeseen, we live there, we see it every day so you know I just can only make a point what I notice, that is all.

MR. TANNER: But you really need to make DOT aware of it and when the Planning Board has their meetings on this, you have to make them aware of it that way someone can either say hey, you can't build a project because it's dangerous or what corrective measures we take to change the situation.

MR. JOE SMITH: So safety apparently was rejected for safety last time but safety doesn't come under the purview of your committee?

MR. LUCIA: Not everything that you heard in 1989 and not everything contained in the I guess it's November 13 of '89 decision of this board is transferable to this meeting. The reason is that in 1989, applicant came in for a use variance, area variances and a sign variance, the highest hurdle we had was the use variance. The property was then zoned R4. If my recollection is correct and he was attempting to put in an office building that is why he needed the use variance, he was unable to prove in this board's eyes unnecessary hardship and as you say safety was probably

a good part of that consideration but because the property was then zoned residential. The property has now been rezoned to PO, the safety issues have changed. We're not dealing with a property designed and zoned for residential use so the safety issues now are relative to the PO zone so you can't simply transfer everything that happened in 1989 to the current hearing. We're not saying that we're turning a deaf ear to safety and public health issues and you're certainly welcome to comment and the the board is hearing you but I don't think you can come in and say you saw this proposal once and you turned it down for safety reasons and you should again. He no longer needs a use variance so he has cleared his highest hurdle. He's now seeking area variance, there's two issues, one developmental coverage and sign area and the board doesn't mean to turn a deaf ear to your concerns as a neighbor, we all understand that the appropriate place to address them is to the Planning Board. He has to go before the Planning Board, go and raise the same issues. If you feel DOT should have input, by all means write to them. They have files on these things and will take your comments into consideration. But at this point, the limited jurisdiction of this board is to address developmental coverage and sign area. If there's anything you have to say on those two issues, we'd be happy to hear them.

MR. JOE SMITH: Does the board and New Windsor Town Board or your board or the Planning Board have a legally liability for anything? Five corners comes to mind, it's a horrible situation, it's just something that evolved over all the years but I do know the history of this little grouping of property and when I look at that, I look at mini five corners. I see all kinds of disasters occurring. Maybe these gentlemen are right, maybe there won't be any accidents but as a tax payer in New Windsor, does New Windsor have any legally liability for allowing something like this and I'm not, something akin to this, something similar to this to evolve because of these meetings and votes that you are taking here and if we have serious accidents occurring in this area, do you have any legally liability, yours boards or the Town of New Windsor for this?

MR. LUCIA: Not directly. That is the reason we have these public hearings is to obtain this input. If you feel there's an issue, raise it and it certainly will be addressed and considered by the appropriate board. The problem is the traffic and drainage, they are not Zoning Board issues, the appropriate place to raise them is before the Planning Board.

MR. JOE SMITH: You couldn't write a letter to our firm addressing the legal liability issues that I am bringing up here?

MR. LUCIA: I'm not sure you're raising legal liability issues, you're speculating into what might happen in the future. This board has a very, very limited jurisdiction. The Town has rezoned this parcel, this applicant meets all the zoning requirements except for two, developmental coverage and sign area. He's saying I need relief from this. We're sitting as a court of appeals. And those are the only issues we can address. If your health and safety issues concern developmental coverage, this board would be happy to hear it. If your health and safety issues affect whether the sign is too large and should not be granted a variance, please tell us. Those are the specific health, safety and welfare issues that you need to address to this board tonight. The broad brush health and safety issues you are raising are Planning Board issues.

MR. MICHAEL SMITH: J & H Smith on Little Britain Road. There, first of all, I want to say in his opening remarks, I don't think he doesn't think this is a personal attack because we're all for him improving the area and we've had a meeting or two, you know, in the past but at the same time, that you know we want to be good neighbors, if that is to be the case, it's just maybe a matter of input here and hopefully we can have more personal meetings. We really haven't had too much of that but at the same time, when you talk about developmental coverage, you're talking percentage factor 30 versus 50, correct?

MR. LUCIA: Correct.

MR. MICHAEL SMITH: I put myself in Mr. Pizzo's position, he has an investment he wants to have good neighbors and at the same time, provide for proper developmental coverage and safety. The developmental issue is a 50% but I guess it's still a two story building, is that true?

MR. BABCOCK: Yes.

MR. MICHAEL SMITH: Seems just offhand the concern and is that since that is quite a bit of building you know 10,000 square foot has been reduced to 7,800 that in itself with the 50 percent factor it could be as much as 50 percent, that in turns triggers these other things that we're talking about, the principle coverage effect is the developmental coverage being at 50 versus 30 and whether or not that amount of property and that odd configuration for the various reasons real quick is like over here and I thought last time we last talked about a year or two ago, where our entrance is here but this is 50 percent versus 30, two stories high with a lot of parking spaces and everything. And believe it or not, for us the egress and so forth we're right across the street here, that is the bottom line because you know whether we're right or wrong, I don't know but hopefully there will just be passenger cars and things going in there. But it's a lot of traffic right there which I don't know if the study addressed because we've had in the past people are running into the parking lot damaging cars, not a lot but it does happen. Just wondering since there will be increased activity here with this 50% development coverage, it may result in the bottom line safety, we're not opposed to PO, we're not opposed to Mr. Pizzo.

MR. CUOMO: We're just for Mr. Pizzo's own protection is to be sure this is really thought out property so that this 50 percent will not create the other problems because there's no right turn sign here because you can't cross over here. In this little area where cars stop, sure the economy is slow, that is why you have decreased traffic. Right now, business is off, I feel that by the end of the decade, things will really pick up and if things happen and pick up, you're going to have a lot more traffic, a lot more stop and go. This

road may need to be widened and you have 50% development coverage. That could be a lot and I'm just, I think that is really what's at the heart of the issue so in that sense to me the development coverage could be an issue but it's something that we just want to point out for everybody's benefit and this little section here which I thought would be in this thing tonight is still not here and it would be nice so that can be considered in the overall scheme of things, we're not directly opposed but just want to be sure that it is properly presented and thought out so that the future will be good for everybody.

MR. LUCIA: Just a question Mr. Smith so I understand your position, are you saying that if the applicant were to come in with a proposal which met the developmental coverage that is no more than 30 percent that would minimize the safety issues that are being created?

MR. MICHAEL SMITH: I can't pin it on particular percentage, I don't think, but seems like 50% with 7,800 square foot two story building I don't know what's going to be in there, that information there could be without considering that little piece of area where we're right across the street there because of these other little things here, no right turn in itself, if it is 45 percent, 38 percent, 57 percent, can't really give you an answer but offhand with the amount of square footage and how many tenants and so forth and people are going to be there offhand it seems like it could be a problem particularly for the future.

Possibly, maybe I'm wrong, but it just seems the way this odd ball shaped piece of property is, it's just very odd the configuration and if the needs of the Town of New Windsor increase in time ahead right now, Mr. Pizzo corrects things, yes it's pretty good right now, we haven't had any accident of recent date but just looking down the road you know that is a concern.

MR. JOE SMITH: When you get down to a small office building with a couple of attorneys and their secretaries or paralegals, whatever, that is something that I don't think we would ever come here for. Obviously you can't build a home on this piece of

property which was brought out which we understand but when you go from a little law office or two law offices and a few cars and 8,600 or now apparently it's a 7,800.

MR. NUGENT: 91.

MR. CUOMO: No, this is done by a computer, it's all been done on computer. This is for this meeting, okay.

MR. NUGENT: It's now down to 9,143.

MR. JOE SMITH: I thought it was 76.

MR. CUOMO: It's not 78, it's not 69, it's not 42, it's 91, it's done by a computer, I'm registering with the Town, this is the actual cover

MR. JOE SMITH: What's the square footage of the building?

MR. CUOMO: It's right here.

MR. NUGENT: You have on this piece of paper that you gave us.

MR. PIZZO: Allow me to clarify it.

MR. NUGENT: You have 9,143 square feet less 1,280, what does the 1,280 represent?

MR. PIZZO: Represents center mezzanine atrium in the middle of the building.

MR. NUGENT: Which is unrentable space?

MR. CUOMO: Yes, it's like the opening when you walk in, you'll see, unrentable.

MR. NUGENT: Actual rental space is 7,863.

MR. PIZZO: On two floors.

MR. JOE SMITH: We're just asking these questions so no one should be upset.

MR. CUOMO: It's a good question.

MR. JOE SMITH: My point is whether it was 7,800 feet, 9,100 feet, if you have an atrium with a waterfall, doesn't make any different. If you have a small law office and I've said this consistently since 1989, when Mr. Pizzo came into the office for the only time that a small law office with a couple of law people with their secretaries, et cetera, we wouldn't be hear, leave a couple of trees, that would be fine. But to put an 8,000 square foot office building that piece of property or whatever it is to me causes severe safety problems in a nut shell.

MR. NUGENT: I was on the board in 1989 so I know exactly what you're talking about but that was taken completely out of our hands, this board, it was done by the Town Board. They gave him the zoning change all we're here for to is what Mr. Lucia said a few minutes ago is 20 percent developmental coverage and 39 square feet sign area, that is it. That is all we've got to make a decision on period.

MR. BABCOCK: And also one thing the building meets all the setbacks we're not asking for any setbacks for a larger building, that would not fit it on this property. All right the developmental coverage, the building itself is the size that will fit on the property according with all of the setbacks. He's not asking to go any closer to any property lines with the building so the developmental coverage is really coming up about the parking area, the paved areas and so on. That is where the developmental coverage is coming up.

MR. JOE SMITH: I'm sure that they'll, like you say, the Planning Board will do what they have to do but please listen to me when I say this as a tax payer of New Windsor, this is the only thing I want to hone in on exactly what I said in 1989 that 9,000 square foot or 7,000 square foot building on that piece of property now and in the future during construction and after it, believe me will cause problems for this Town and that is why I asked the question about legal liability, I say that somehow as a tax payer in New Windsor, I'm

going to pay for this, somehow. Forget J & H. Smith, that is a problem, I see a problem. I'm not against Mr. Pizzo and I'm not against Mr. Cuomo, they are out to do what they have to do and I respect them but I respect this board but I think we have to get some sanity in this development, that is all.

MR. LUCIA: And I take it you're opposed to the granting of the two variances?

MR. JOE SMITH: I'm opposed to this plan as Mr. Cumo states the 9,100 feet I'm against 9,100 square foot structure on that piece of property without question.

MR. LUCIA: That issue is not before this board. The only thing before this board is developmental coverage, that includes both the footprint of the building, pavement, walks any impervious surface that is not open to the sky.

MR. JOE SMITH: The issue of the monument to me in my mind has complicated the fact I think it's a great idea for New Windsor and I believe in monuments, I'm a big historian but that is another traffic problem. We were approached to have a monument on our property and we declined it because of that very reason.

MR. LUCIA: You're opposed to the granting of these two variances?

MR. JOE SMITH: Yes, the way they stand.

MR. MICHAEL SMITH: Yes, I am.

MR. LUCIA: You're opposed to it also?

MR. MICHAEL SMITH: Yes.

MR. NUGENT: Any one else in the audience that would like to speak? If not, I'm going to close the public hearing and open it back up to our board for any further comments. One thing I would like to say right here and now is that the only thing that we're voting on is two items, period.

MR. TANNER: I have somewhat of a problem with the developmental coverage. However, in the agreement with the Town Board it says the owner agrees that a maximum developmental coverage will not exceed 63 percent, to me that says that he can do 63 percent that is how I interpret it. Now, Dan maybe you can--

MR. LUCIA: I wouldn't take that impression from it in order for that to be true, the Town would have had to rezone all PO or created some special zone for this permitted 63 percent developmental coverage. All the Town Board is saying he shall not exceed that but he's still subject to all the other PO requirements but he can only go up as high as 63, if the Zoning Board granted him that much, he's chosen to apply for 50. I don't think that is a Town Board statement as for this parcel that developmental coverage is part of the local zoning ordinance.

MR. HOGAN: Minutes of the public hearing July 15, 1992 it was said on at least two occasions that was the intent.

MR. TANNER: The only reason I'm bringing this up if we decided to vote against this, I wouldn't want to see us end up back in an Article 78.

MR. LUCIA: The Town Board cannot short of changing the zoning ordinance in any way impair our authority and ability to grant variances. This is the only board in the Town that can do that. All they can do is change the zoning ordinance which they have not done so I do not foresee the applicant coming in unless the zoning ordinance itself were changed, he has no real grounds there.

MR. TORLEY: I agree still very tremendous difficulties with the developmental coverage which is related to the size of the building obviously. And the sign variance is minor, I would suggest that we split the variance vote, one for the area and one for the sign.

MR. NUGENT: Do anything you'd like, that is fine.

MR. LUCIA: Make two separate motions on two separate

variances, that is fine.

MR. NUGENT: Would you read that from the Town Board, please?

MR. TANNER: Owner agrees that maximum developmental coverage will not exceed 63 percent of the total parcel area.

MR. NUGENT: Owner agrees.

MR. TANNER: Yes.

MR. LUCIA: If I might quote paragraph 8 of the same agreement the owner agrees that he will be bound by any other conditions of the Zoning Board of Appeals or Planning Board so I think the Zoning Board obviously anticipated he was going to come here and to the Planning Board and that we might have other opinions on the issue as we should.

MR. NUGENT: The thing that bothers me a little bit is the copy of the letter that he gave us this evening in the folder was about the square footage and you can see that there's a difference between lowering it to 30 or at 50 which I can understand supposing he had 40 or he had 45, you know what I am saying? We weren't given those choices basically what we have got to do is we have to vote on 20 percent more, period.

MR. LUCIA: Well, the other thing that is relevant I don't think you can take those figures entirely at face value because there a lot of factors when you enter into consideration of reasonable return and if the applicant looks back at that November '89 decision, he's going to see them spelled out and that is one of the reasons he failed was that he had not come back with significant evidence what he paid for the property, what the value of it is, obviously this piece of property is residual land, after a number of right-of-way takings and if the then owners prior to Mr. Pizzo were in fact reasonably compensated and this property had relatively little residual value, I don't think the applicant can come in and say I'm going to put up on this marginal piece of property an \$860,000

building and expect a reasonable return on it. That doesn't really tell the whole story so I don't think you have to look at these numbers and say well, he's clearly showing loss 30 percent and a net profit of 50, therefore we should give him the 50. That is by no means the whole story and you shouldn't have those numbers that way either.

MR. TORLEY: I have another question. The law requires us to a reasonable return, but it does not necessarily reflect a profit, it says you must get reasonable return on the property, even if you paid too much, nowhere does it say you're going to guarantee everybody a profit.

MR. LUCIA: Maybe a loss is reasonable under certain circumstances.

MR. TORLEY: Law does not guarantee a profit.

MR. LUCIA: That is true and it's easier for this board now that we have a balancing test, it used to be more strictly financial but now basically you have a right to balance his return or his hoped for return should this board grant a variance against the detriment of the health, safety and welfare of the community.

MR. TANNER: I was thinking of other properties we've considered and 20 percent is a pretty big jump. I just, we have been considering five, ten percent, something like that on properties. I don't know that we've considered one this large before. Putting an awful lot of blacktop.

MR. NUGENT: I can't recall in my time here.

MR. BABCOCK: Most of the commercial properties in C and commercial C zone as far as developmental coverage is N/A, there's no allowable or maximum what you usually see an office building except for the PO, of course.

MR. TORLEY: That is what this is now zoned.

MR. BABCOCK: Exactly, that is why I am saying you

don't see too much.

MR. TANNER: When we usually see a variance, it's not that large. I consider 20 percent on a site pretty large. We don't usually see them quite that large.

MR. NUGENT: Well, you're right, based on the lot itself, it's over twice as large as required, the lot itself is over twice as large as required. In a PO zone, it's 15,000 square feet. He has almost 35,000 so it is a lot bigger lot than what is really required.

MR. BABCOCK: Right.

MR. HOGAN: But it's the characteristics of that lot that are bringing this whole situation to a head here. And one of the questions I would have in terms of asking supplementing, the sheet that you provided for us, board members here tonight is and it maybe on the record from 1989 and if it is, I'm not aware of it, but I would be interested in having you provide us the details on the purchase value of the lot at the time that you purchased it.

MR. TANNER: There is a lot of numbers we need if you are looking at it from an valuation standpoint.

MR. HOGAN: I am not sure whether you're in a position to do that tonight.

MR. PIZZO: I'm not sure that you know we have to prove hardship, as we had to with a use variance. We're here just for an area variance. Fifty percent in comparison to a lot of the projects that I have seen around New Windsor seems to be relatively minuscule. I currently have a parcel of land 3/4 of an acre and I have 15,000 square foot office building almost twice the size of this of course in selecting the right tenants and managine it properly is an issue, there's absolutely no problem with that. I can't see at all particularly in light of giving consideration to experts who are accountable, you have an engineer here who has a license and is accountable and he's telling you that this project will work. You've got 100 page study from an engineer, stamped engineer who makes a living out of

doing traffic studies. He's giving you a document that says that he has considered the Smith's property, he considered the area, he set out there and watched every car, observed the traffic lights, took into consideration Stewart Airport and his findings were, I didn't pay him off to say it, his findings were that this project will have no impact on a negative basis as far as the area is concerned.

MR. TANNER: Why can you not make the project to fit within the guidelines of 30 percent?

MR. PIZZO: Because it's not economically.

MR. TANNER: But you haven't showed me that that is. What we're saying to you, you haven't shown that, show us at this point.

MR. PIZZO: I've given you a preliminary picture as to a generalization of the circumstances which in my point of view should be adequate enough for you to draw a conclusion. The issues are in my opinion is this going to impact the area in a negative manner, is it going to present hardship to anyone, is it going to create safety difficulties. The answer to that based on expertise is no and I believe that the experts involved, their licenses and their reputations have to be respected and with that, all I can say that I wish that you would see that in the same light, realize that 50 percent coverage when I've seen 80, 90 percent in this Town.

MR. TANNER: Not in PO zone.

MR. TORLEY: Sir, you asked us to be rezoned from R4 to PO and this is what the PO zone requires is 30 percent coverage.

MR. PIZZO: Yes, we have a practical difficulty.

MR. TANNER: What's the practical difficulty?

MR. PIZZO: Practical difficulty is this, is that in doing the 30 percent versus the 50, you've got financial loss to be phased and as a result--

MR. TANNER: We need more information in order for us to draw that conclusion. These figures to me--

MR. PIZZO: They are all hypothetical, you could just say you can put any--

MR. TANNER: What I am saying to you is if you can show me that a 30 percent that you can't make a reasonable profit, I don't have any problem with larger coverage. These figures to me don't show me really anything.

MR. PIZZO: Any business and businessmen here understand that the end product of a business venture this probability likelihood there could be where you could get a 30 percent user tenant on that property and get a huge amount of money and that would be fine. I wouldn't have to be here. Based on not having that be the case, and looking at it through my own eyes as the expert businessman, expert engineer, traffic study man, engineer, this is the way that it has to be approached, the likelihood about ever getting potential realistic return on your money in consideration of investment and that is what I propose. And if it is only a projection that can't be hammered in granite too, I have to make that clear.

MR. LUCIA: I think the one point that maybe you're not addressing and this board in noting, they've not said in any way questioning the expertise of Cuomo or Rapoli but the financial aspect is susceptible to personal opinion. You tell us your experience in building office buildings and the board is entitled to accept or reject your own say on that. You certainly had the opportunity to come in with whatever expertise you want in terms of real estate appraisors, in terms of accountants or anybody else who can provide the data concerning the cost of this parcel, the cost of developing it and the expected return on it and fill in the gaps with what you have submitted here on your 50 percent and 30 percent alternatives.

MR. PIZZO: No one can provide any projection or proposal in 100 percent accuracy, that is the point I am trying to make.

MR. LUCIA: I don't think this board is expecting that but all we're saying is that what you have submitted leaves much unsaid and I think maybe the board would feel more comfortable if some of those gaps were filled in. I guess I leave it to the board's discretion whether you want to adjourn and let him come back in and bring appropriate expert input, if you choose to do so.

MR. PIZZO: I would be glad to furnish you with any.

MR. TANNER: I'm not against the project, I think we need more input.

MR. PIZZO: If you want to play with numbers, get an accountant, they can make anything look like whatever you want it to look like so I don't want to insult the members of this board by presenting something that may appear so very efficient with great appearances and a lot of paper, that isn't any better than the piece of paper I put on your desk.

MR. TANNER: You have a number for how much it's going to cost to build this building, how do we know that that is in the realm of possibility? It could be half that it's going to cost you to build it. We have no real numbers, you're telling me it's going to cost that, if a builder comes in and looks at the plan you have, he may say hey, it's only going to cost \$300,000 to build that building. That is what I am saying, we need some--

MR. PIZZO: There's latitude there in that figure. The latitude is very simply even forgetting about that number that we have even considered the approximately \$100,000 that I have into the land so therefore you have \$100,000 approximately around the number that we spoke of.

MR. TANNER: I'm not saying that you bring in an expert witness that says it's going to cost \$810,000 and to build the building but if he can tell me it's going to cost between 7 and \$800,000 to build the building then I have some numbers. You can't tell me it's going to

vary between \$300,000.

MR. PIZZO: It's a simple projection of numbers, building an office building, give or take ten percent, 15 percent is \$100 a foot simple, no question that is what you're looking at. 7,800 square feet, \$780,000, a little bit more, 850, a little bit less, depending on whether you have marble, it's masonry.

MR. TANNER: Bring someone in and have them explain that to us, give us the numbers.

MR. TORLEY: If you are saying it's going to cost \$800,000 to put up the property, when you bought this piece of proper, you knew how big it was and how big you could put a building, the zoning codes, how big a building you could put on and what the return you could get from such a building, I assume that would be correct.

MR. PIZZO: Not actually correct. I consulted certain people as to what is really the particulars to do with that property, conducted certain studies with a site plan that appeared to be realistic knowing that I had to go to zoning boards and planning boards and with my experience in other townships I felt that it would be realistic to have the Town make some changes, allowing me to pursue the project. We seem to be making headway but that was the general consensus at this point in time.

MR. CUOMO: There's another factor besides money the building in the public hearing for the Town Board the supervisor mentioned you know we had 63 percent in those days because we were using pencils and rulers and now we use computers, we've advanced but the supervisor said I'd much rather see 50 percent for the expansion than 63 so when we put it through, we shrunk things and we got it down to 50. However there comes a point of no return where the aesthetics of this building if you shrink it too much you lose something in the architectural and the aesthetic appeal to the building and that is something else that has to be considered besides money, I think in my opinion. There's more to this than money, we want to make a building that is

virtually in a time square of New Windsor, everybody is going to see this building. Nobody is going to miss it. People who come from, through here, it's in the most predominant place in Town and if we keep slicing it like a salami, I don't mean to use that term, but if we keep slicing it, we're not going to get something that is aesthetically appealing. That is one of the reasons why I did get it down, orders of my client to get it down to the point where of no return and I think 50 percent I don't think is about, that's about it, I mean we can go down to 30 but I don't know what we'll com up with. This is what we're coming up with now and I think it looks pretty nice.

MR. LANGANKE: I feel that this is a very attractive project. I think a lot of thought has been put into it and as a lifetime member of New Windsor, I would much rather see that building there than the trees that are on that lot now. I think it's going to be a plus. I think these people have put a lot of thought into ig and within a narrow confines of what we're here for, I think they've focused on those issues and I like the project.

MR. NUGENT: We have been beating it around for four plus years so they've probably got a lot of practice. Well, if you are prepared to take a vote.

MR. TANNER: Personally, I'd rather have more information but I'm in the minority here.

MR. LUCIA: We can get the applicant's reaction whether you want the opportunity to submit more information.

MR. PIZZO: If I can interject and say one more thing talking about the experts I think no matter how you look at it, somehow it has to get to somewhat on a personal level, where you believe in the people that you are dealing with, particularly myself and being a local businessman and having a track record of success and understanding that the ramifications of this thing both positive and negative will be the result of my doing. If I spend or I'm stupid enough to spend \$880,000, \$900,000 for a project, and I can't make it work as I described to you, and have it appear the way

I've described to you the way that it appeared then I can't be a very bright person. I should just leave it the way it is with the trees on it, perhaps sell it to Mr. Smith but I feel confident and this is I believe that you have to believe in that. I can take this piece of property, develop it into something productive that we'll all be proud of and with that, I'd like to have you nice people vote on your decision, thank you.

MR. LANGANKE: I think he said it very well and that is the way I have been impressed by this whole presentation.

MR. NUGENT: I'll accept a motion.

MR. LANGANKE: I make the motion that we approve the variance as submitted.

MR. LUCIA: Both together?

MR. LANGANKE: Both together.

MR. TORLEY: For purposes of the vote, I'll second it.

ROLL CALL

MR. TORLEY	NO
MR. NUGENT	AYE
MR. HOGAN	NO
MR. LANGANKE	YES
MR. TANNER	NO

MR. LUCIA: Does not carry, you need three affirmative votes to carry both variances. You can, if you want, you have two opportunities, you can split the two variances, you also are charged with the obligation of granting him a minimal variance if there's some number which you think you can get three votes on between 50 and 30, you can put that in the form of a vote.

MR. TORLEY: I'd have no problem at all with the sign variance. I move we grant that.

MRS. BARNHART: What's he going to do with the sign variance? Don't waste your time here.

MR. PIZZO: I'd like to say based on the fact that we have a vote that again defeats us, isn't that the case at this point?

MR. LUCIA: At this point, that is correct.

MR. PIZZO: I have a feeling that I don't believe that we have been given a fair shake by this board and what I am saying is that I can recall at the Town Board meeting that we had a couple of gentlemen, this gentleman and someone else from this board raise objectivity before this very judgment as a matter of record which to me appears improper to then sit here this evening in the posture that their being neutral towards the project.

MR. TANNER: I don't have a problem with the project at all.

MR. PIZZO: I've had a member on this board at a point mention that he was interested in buying the property himself who didn't pursue to do that.

MR. LUCIA: I don't think that member is any longer on the board.

MR. PIZZO: As a result of that, he may not been at this board but his presence in some manner still seems to be here. I feel that this board has acted improperly so if you want some other numbers.

MR. TANNER: I'd like to respond. You've made some charges and I'd like to respond to them. Number one, I'm only one person on this board. You had three negative votes. Number two, yes, I did attend Town Board meeting, I had concerns about that piece of property being rezoned from residential to PO. I didn't feel it was proper zoning. However it's now a PO zone, that changes my whole point of view. I have to look at it differently as board member that it now is PO zone. At the time, I objected to it being zoned PO was for safety reasons. Those safety reasons do not apply to a PO zone. I'm not voting against this for safety reasons. I'm voting because you've not provided

March 22, 1993

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the financial information I feel that I need to make a proper decision.

MR. PIZZO: I still feel that is what you're saying now I still feel that your position has been arbitrary and to run a number of \$98,982 a year as profit for the building multiplying that by ten years that is \$9,800,000, the value of that property in ten years should be \$4,000,000 so you can expect then a lawsuit from me for \$13,000,000 regarding this case. That is all I have to say, gentlemen, good evening.



JAMES T. RAPOLI CONSULTING

Traffic & Transportation Engineering

☐ 7 Roan Lane
Newburgh, New York 12550
Telephone 914-564-4954

☐ 777 South Road
Poughkeepsie, New York 12601
Telephone 914-298-7305

FAX 914-298-1929

October 10, 1989

Mr. Paul V. Cuomo, P.E.
Consulting Civil Engineer
478 Union Avenue
New Windsor, NY 12550

RE: Pizzo Access

Dear Paul:

At the request of Mr. Dan Bloom, clients counsel, we have reviewed the site plan, Drawing No. SP-1, dated 9/11/89, prepared by your office. The proposed driveways (2), hereinafter referred to as Access "A" (that which connects to the two-way section of NY-207) and Access "B" (that which connects to the one-way section of NY-207), appear to have been designed per NYSDOT standards. However, based on the anticipated traffic volumes, ingress at Access "B" is not warranted. All traffic entering the site can be accommodated by Access "A". We suggest Access "B" be redesigned to allow left turn exiting movements only. This movement is necessary since right turns are not permitted from the southbound approach of NY-207 at its signalized intersection with NY-300/Temple Hill Road. The traffic flow pattern established by the above ingress/egress configuration will reduce the possibility of vehicles exiting incorrectly and traveling the wrong way on the one-way section of NY-207, and reduce the number of internal traffic flow conflicts.

Attached is a conceptual sketch of the above. It is suggested that a curb to curb dimension of not less than 20 feet be used for the exiting drive.

If you have any questions and/or comments, please do not hesitate to call.

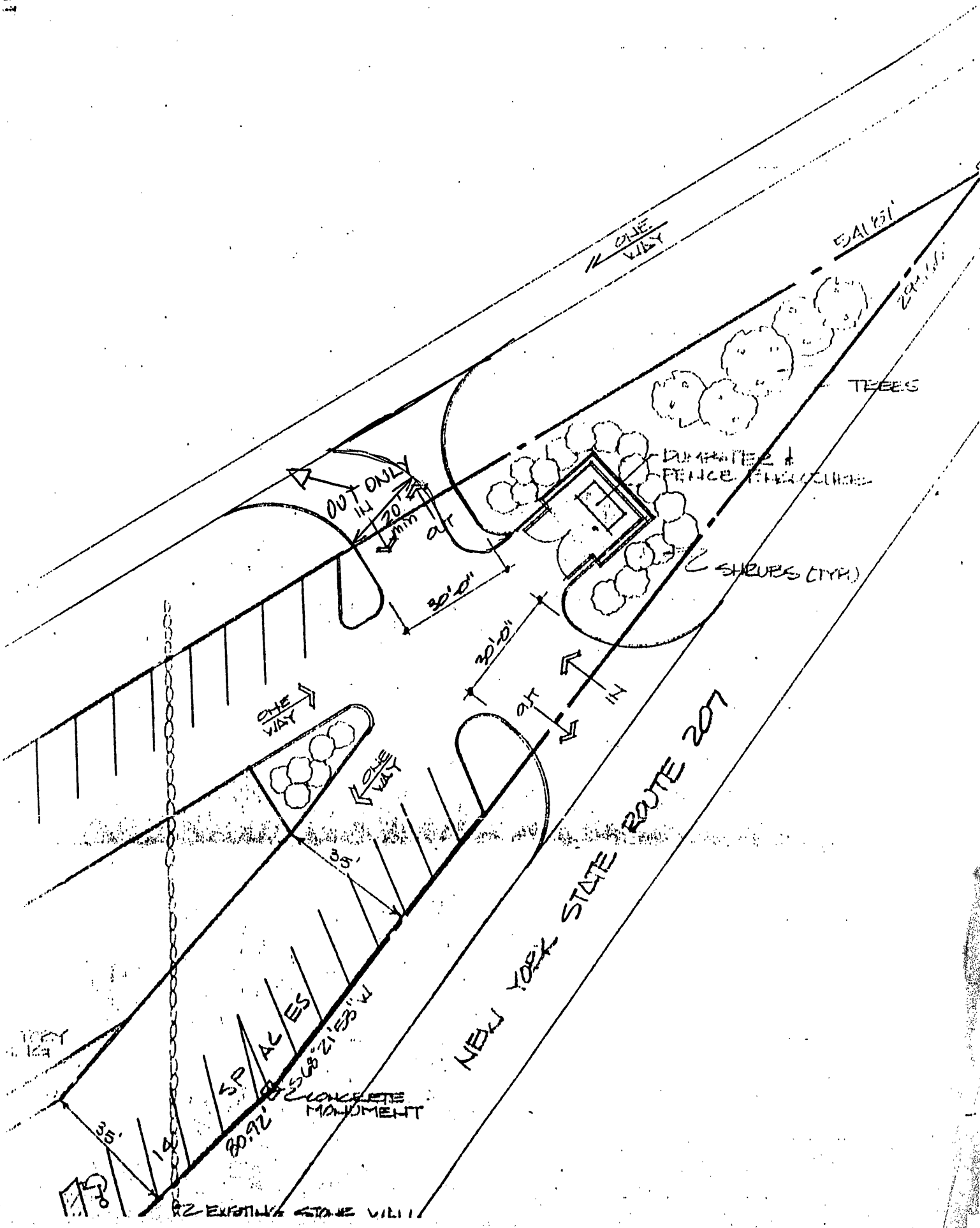
Sincerely,

JAMES T. RAPOLI CONSULTING


James T. Rapoli, P.E.
Principal

JTR/jmr

c D. Bloom
J. Pizzo





JAMES T. RAPOLI CONSULTING
Traffic & Transportation Engineering

*cc: Daniel J.
Lucia, Esq.*

☐ 7 Roan Lane
Newburgh, New York 12550
Telephone 914-564-4954

☐ 777 South Road
Poughkeepsie, New York 12601
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FAX 914-298-1929

October 10, 1989

Mr. Daniel J. Bloom
Bloom and Bloom, P.C.
530 Blooming Grove Turnpike
P.O. Box 4323
New Windsor, NY 12550

RE: Pizzo Traffic Impact

Dear Dan:

Pursuant to your request, we have reviewed the revised Pizzo proposal with regard to access and traffic impact. Enclosed herewith is a copy of a letter to Paul Cuomo regarding the access. The traffic impact requires some recalculation due to the square footage increase from 8,800 to 10,704. The Level of Service at NY-207 and NY-300/Temple Hill Road was "D" and the additional volume may reduce the intersection to a Level of Service "E". We do not anticipate a problem, but shall recompute and advise. I will attend the Town meeting and contact you in advance with a revised study and/or a follow up letter.

If you have any questions and/or comments, please do not hesitate to call.

Sincerely,

JAMES T. RAPOLI CONSULTING

James T. Rapoli
James T. Rapoli, P.E.
Principal

JTR/jmr

c P. Cuomo
J. Pizzo

Rec'd. 3/3/93

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Prelim.
3/8/93

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-4

DATE: 3/3/93

APPLICANT: John Pizzo
53 Rt. 17K
Newburgh, N.Y.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 2-4-93

FOR ~~(SUBDIVISION)~~ - (SITE PLAN)


LOCATED AT N.Y.S. Rt. 300 (North side)

ZONE P.O.

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 11.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Developmental Coverage

Sign - Free standing


MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>P.O.</u> USE _____		
MIN. LOT AREA _____		
MIN. LOT WIDTH _____		

APPLICANT: John Pizzo
53 Rt. 17K
Newburgh, N.Y.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 2-4-93

FOR ~~(SUBDIVISION)~~ - (SITE PLAN)

LOCATED AT N.Y.S. Rt. 300 (North side)

ZONE P.O.

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 11.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Developmental Coverage

Sign - Free standing



MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>P.O.</u> USE _____		
MIN. LOT AREA _____		
MIN. LOT WIDTH _____		
REQ'D FRONT YD _____		
REQ'D SIDE YD. _____		
REQ'D TOTAL SIDE YD. _____		
REQ'D REAR YD. _____		
REQ'D FRONTAGE _____		
MAX. BLDG. HT. _____		
FLOOR AREA RATIO _____		
MIN. LIVABLE AREA _____		
DEV. COVERAGE <u>30</u> %	<u>50</u> %	<u>20</u> %

O/S PARKING SPACES

FREESTANDING SIGN 49 SQ FT 10 SQ FT 39 SQ FT

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
 (914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
 OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

MB
REVISED
3-8-93

February 10, 1993

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PIZZO, JOHN SITE PLAN (93-4) ROUTE 300 AND LITTLE
BRITAIN ROAD

John Pizzo and Paul Cuomo appeared before the board on this proposal.

MR. CUOMO: Good evening, we're coming in here for another application but we're trying, we have a rezoning on this, this isn't all the minutes but it says here.

MR. VAN LEEUWEN: I was there that night when the Town Board voted, it's okay.

MR. PIZZO: We were here previously in June of 1992 proposing our office building. With that, it was suggested and recommended by your board that we go to the Town Board for a rezoning in that we were improperly zoned residential in that we're asking to use the land for commercial purposes. You did make that recommendation and we did go before the Town Board for that rezone and we were successful in obtaining a PO change of zoning. Part of that approval was that the Town Board voted us the usage of 63 percent lot coverage which would be required to keep the building that we've proposed.

MR. VAN LEEUWEN: 63 percent including blacktop, shrubbery and so forth because I was there that night and I heard the whole thing.

MR. PIZZO: Correct and along with probably seven or eight other stipulations.

MR. EDSALL: Do you have a copy of that agreement or stipulation?

MR. CUOMO: I have a copy but it's the original one that Tad Seaman sent over to the Town Board.

MR. EDSALL: Is it the complete set?

MR. CUOMO: It's complete, yeah it's complete but it doesn't have all the signatures on it.

MR. EDSALL: I really think we were over this at the workshop, it's inappropriate for us to be discussing an agreement between the Town Board and applicant without having a copy that is certified. So I think we should discuss the site plan anat hand and if there's an agreement reached between the applicant, fine, let's get a copy. But we shouldn't be having secondary information about an agreement the Town may have executed. I asked for it at the workshop and until we get a certified copy by the Town clerk, we shouldn't waste this board's time. We should be talking about the site plan which is this board's jurisdiction.

MR. PIZZO: I have a copy of the legal proposal that was voted on and agreed upon by the Town Board and I'd like to submit this to you to serve your purpose.

MR. EDSALL: This is Ed Garling's letter. I have this. This is different. What I am suggesting is that if the Town Board executed an agreement that we should have a certified copy given to this board and should be in the file certified copy from the Town Clerk.

MR. LANDER: Absolutely, Mark, so why don't we take a look at the site plan which is in front of us.

MR. PIZZO: Here is an agreement.

MR. EDSALLL: Mr. Pizzo has given me a copy with no executed signatures. I know the procedures of the Town Board and many times things are corrected and adjusted. We should have the actual executed copy from the Town clerk certifying that this is in fact what was finally agreed to and again it's not something new I'm asking for. I asked for it at the workshop. Maybe Mr. Pizzo can't get that for us, maybe we have to ask the Town Clerk but you are here, the Planning Board is here to work on the site plan.

MR. CUOMO: I didn't get, only got that for the zoning, we're not here to discuss, we're here because we have a problem. We have a deficiency in one category, we don't have a lot coverage. We have to go to the Zoning Board of Appeals. We're only here for that tonight. I just got this, this is a certified copy from the Town

Clerk saying that the zoning got changed. But if we went to the Zoning Board of Appeals and then came back here, and were approved, we would give you certainly give you all those certified copies.

MR. VAN LEEUWEN: What's your deficiency?

MR. CUOMO: What we don't have is appropriate zoning requirements, we're short on here, we need 33 percent variance, lot coverage.

MR. VAN LEEUWEN: I don't think you're going to get it. You're going to have to shrink that building. I make a motion to approve.

MR. DUBALDI: Second it.

MR. LANDER: You want to take a look at the site plan before you, there might be some things here that you would want changed.

MR. VAN LEEUWEN: Well, the way I understand it he wants to go, the Town Board said and I was there that night, there's no more than 63 percent coverage now they are asking for more.

MR. CUOMO: No, we have 63 percent coverage, we're allowed 30 percent. We need 33 percent variance, an area variance which is not a use variance. We don't need a use variance because we've got the proper zoning. What we need tonight is to be recommended to go to the Zoning Board of Appeals to get our 33 percent variance.

MR. PIZZO: Isn't it true that it is required for us to go to the Zoning Board of Appeals even though Town Board approved 63 percent?

MR. VAN LEEUWEN: You still have to confirm to the zoning law.

MR. CUOMO: They made a developmental agreement like Mark said we should have it here right in front of us but one of the things we know that we're short 33 percent on lot coverage for this site plan. We're 33

February 10, 1993

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percent short. We can't make it smaller because of the parking. We don't have enough.

MR. VAN LEEUWEN: In other words, what you're saying you don't have enough parking for that size building?

MR. CUOMO: No, we have all the parking exactly for what this size building is.

MR. DUBALDI: The only catch you need a 33 percent variance from the Zoning Board.

MR. CUOMO: Right.

MR. VAN LEEUWEN: I think you're going to have a tough time getting it.

MR. LANDER: That is up to the Zoning Board. Let's move right along.

MR. CUOMO: We're only going for an area variance. We're not going, they grant them three or four a month.

MR. VAN LEEUWEN: Did you check this out how much coverage they have got on here?

MR. EDSALL: One of my comments is that what they have should ensure is that when they are going to the Zoning Board Appeals that they have an accurate number because I come up with a different developed coverage than the number on the plan and I believe that it is somewhat less than what you're asking for so don't jeopardize your ability to get a variance by asking for more than what you need but again it's their responsibility to get the numbers fine tuned and again they have to come back to this board even if they get a variance so I would suggest that you give some input on whether or not you think the layout appears reasonable with some corrections made obviously when they come back and then they can go on to the ZBA. One thing you should realize for interest sake, the zoning code is interesting when it comes to minimum required parking for a PO zone, it's ten per office and which is unique because you could say that this is all one office and only provide ten parking spaces. I think it's a

deficiency in the ordinance personally. They are indicating it's 3 offices therefore 30 spaces are required. If you go off the square footage and the one per 200 that is used in other areas of the Town Zoning Code, you need someplace to the tune of 46 parking spaces so understand that the ordinance has that distinction between PO office parking and office parking for other zones and again they are minimums, no place in the ordinance does it say that you can't ask for more but just understand what you're going into, now is the time to say something you believe 30 isn't enough.

MR. DUBALDI: I don't understand why a two story building is going there to begin with but the Town Board made some kind of agreement and I'd like to see that agreement before this gets any further I'd just like to see what they voted on. I wasn't at that meeting so I don't know what kind of agreement was made.

MR. EDSALL: For development coverage this is just my understanding until I see a certified copy, I don't know if it is final agreement is that they were limited to a maximum of 63 percent development coverage but they had to obtain a variance up to that point. They can't go into the Zoning Board and ask for 70 percent because their development agreement as part of the change in zoning restricted it to no more than 63 that they can develop even with a variance.

MR. VAN LEEUWEN: Town Board was explicit, I sat right over there, it was done that there will be no more than 63 percent coverage in total including building and parking development coverage.

MR. BABCOCK: We believe that they are under that.

MR. EDSALL: I believe they are under and what I am asking--

MR. VAN LEEUWEN: I'd like that checked out because some Town Board members are going to ask.

MR. CUOMO: We don't have to be 63.

MR. EDSALL: And they need a variance obviously anyplace between 30 and 63.

MR. CUOMO: This work sheet that Tad made up is the one that was signed, here's the way it makes development coverage will be 63 percent that is the way it reads period.

MR. LANDER: If you stay underneath that Paul you'll be all right. Let's move on gentlemen.

MR. VAN LEEUWEN: If he wants to go to the ZBA I'll make a motion to approve.

MR. DUBALDI: Second it.

MR. LANDER: You have nothing more on this plan.

MR. KRIEGER: If he goes to the Zoning Board of Appeals and he turns them down and he has to rewrite the plan.

MR. LANDER: We're not going to have him change the plan as it is laid out this is the one that is going to the Zoning Board.

MR. LANDER: Motion has been made and seconded that we approve the Pizzo site plan.

ROLL CALL:

MR. VAN LEEUWEN	NO
MR. DUBALDI	NO
MR. LANDER	NO

MR. LANDER: Just for the record municipal water was approved on 2/7/93 and municipal fire was not approved. Bobby Rogers has a few, above referenced site plan was conducted on February 8, 1993, it's my understanding that this plan is to be submitted to the Zoning Board for a variance and he is going to reserve his review until it comes back.

MR. CUOMO: Can we get a recommendation to go to the Zoning Board?

MR. DUBALDI: We gave a recommendation on the zoning change and the zoning change stipulates that you are allowed 30 percent of coverage now you're asking for 63. We never gave a recommendation on 63 percent. We gave a recommendation on a zoning change from whatever it was to PO, now you're asking for a variance which is something on top of that that you are going to have to go to the Zoning Board, obviously. Now, if you want us to give you a recommendation on what we think about 63 percent coverage on a lot.

MR. CUOMO: I'd ask for a recommendation as far as the project as a whole. We've already done that.

MR. DUBALDI: There's a lot of other things on the map that have to be addressed not just coverage I looked on there real quick, I didn't see anything about a dumpster enclosure detail or anything like that so there's a lot of other things that I didn't even look narrowly at that I didn't see needs to be done.

MR. VAN LEEUWEN: Go to the Zoning Board, get that in hand and we'll talk to you when you get back.

3/22/93 Public Hearing: Pizzo, John

Name:

Address:

JOSEPH V. SMITH

499 LITTLE BRITAIN RD

Opposed ← MICHAEL A. SMITH

VI

50%

9143.42
- 1280

$$\frac{7863 \times 1250}{12} = 98,287 \div 12 = 8190$$

30%

7314.74
- 1280

$$\frac{6034.00 \times 1250}{12} = 75,425 \div 12 = 62,854$$

(50) 98,287
(30) 75,425

$$22,862 \times 10\text{yr} = 228,000$$

50% 860,000 15yr 9% 7,200 month + 1000

30% 810,000 15yr 9% 6,600 month - 400

Date 3/17/93, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Ruth 389 Moores Hill Rd DR.
New Windsor Ny 12553

DATE				CLAIMED	ALLOWED
3/8/93		Zoning Board Meeting		75 00	
		Pizza 2			
		Apache - 8 36.00			
		Bennett - 7 31.50			
		Pizza - 11 49.50 4			
		Pizza - 4 18.00			
		Martin - 3 13.50			
		Keyser - 4 18.00			
		39 pp		175 50	
				289 50	

PIZZO, JOHN

MR. NUGENT: Request for 20% developmental coverage for construction of professional building on Temple Hill Road in a PO Zone.

Mr. John Pizzo and Paul Cuomo, P.C. appeared before the board on this proposal.

MR. PIZZO: For those of you who don't know me, I'm here this evening to request a variance for developmental coverage on the parcel of land that I own on Route 207 and 300. As Paul is placing the map on the board, I'd like to back up a bit and I have some relative information here on certain documents that are supportive of our position. Is it all right if I pass these out?

MR. NUGENT: Yes.

MR. PIZZO: In October of 1989, I was before this board requesting a use variance in that at that time, the property was zoned residential. I was unsuccessful in my application for the use variance that would be required so that I would be able to construct an office building that I had proposed at that time. In evaluating my options, I then went to the New Windsor Planning Board and with their recommendation, I went to the Town of New Windsor Town Board where I had made application for rezoning to PO, professional office zoning. I was successful on that evening of June 17 in getting a change of zone to professional offices. It appears that to satisfy the building I'd like to construct, I would require 50 percent lot coverage, the PLO zoning states that 30 percent lot coverage is allowed so therefore I would require 20 percent variance giving me 50 percent to construct my proposed office building. I'd like to mention that along with that approval for rezoning at the Town Board meeting, on June 17 of 1992, it was sort of an agreement that was put forth to be voted on. That agreement is enclosed in that information that I gave you in your individual folders. With this agreement, it appears that--

MR. TORLEY: Which item is this?

MR. PIZZO: This is item 2, I marked item 2 in the corner of the paper. With this agreement, it appears that it was suggested that I were to give the Town as it states here, some easement 70 feet wide by 110 feet allowing the Town to place their monuments, flag poles or other items deemed appropriate at their discretion and I was to maintain those properties, place a flag pole on that particular premise, deal with putting electrical outlets and maintaining such. And it appears that there would be an agreement made that 63 percent of the developmental coverage of the lot would be possibly allowed. Now, my, I don't particularly understand exactly how I should be reacting towards that. It appears to me that this is an issue that is among the boards of New Windsor. I feel comfortable that this board will exercise its own good proper judgment in dealing with this matter. Now, I have my engineer with me, Paul Cuomo, who would be willing to answer any of the technical questions regarding the proposed office building and the other pertinent information regarding the variance requested. Mr. Cuomo?

MR. CUOMO: Any questions? One thing about the coverage here, we originally were up, we want 50 percent because we had, we put all this material inside a computer and we analyzed it and we found out that the building to satisfy the design would be 9,143.42 feet that would be 50% coverage. This is all done by computer. It's not done by hand. I want to emphasize that. It's very difficult to figure these areas, there are a lot of convoluted changes.

MR. LUCIA: I see the second sheet of your proposal or whatever it is designated, those areas by number, can you explain to the board on the record exactly which areas you're including in the developmental coverage and which areas are not included?

MR. CUOMO: Well, the areas of developmental coverage consist of the building of course, the blacktop, all the blacktop and you can see it winds around here, all

the blacktop. We don't include any of the shrubbery areas, these areas here are not in the developmental coverage. This area is not and the sign area. But the rest of it, all this area out here where the parking, let's see, where the Town had asked us to agree to place any monuments or whatever they might because of the unique position of this building, this building would be in a very unique area, it's very, a lot of people will see it. So we volunteered to use this area for a Town monument which we would maintain with lights and cutting grass and everything else. But the developmental coverage is strictly the blacktop and the building itself.

MR. LUCIA: Just for clarity because I know you and Mark Edsall discussed this at the February 10th Planning Board meeting, areas on your P2 that are numbered in circles 1 through 7 are all the undeveloped areas. Everything else is developed is that the way the numbers would look.

MR. CUOMO: I'd have to look at one of them quick.

MR. LUCIA: Page 2 on the one that we have.

MR. BABCOCK: Everything that is numbered.

MR. LUCIA: Numbered 2 through 7 I think should be undeveloped, is that correct?

MR. CUOMO: Yes, you can see it right here.

MR. BABCOCK: Building and road is not.

MR. CUOMO: Building and the parking lot.

MR. LUCIA: Everything other than 1 through 7 is developed.

MR. CUOMO: Yeah and it comes out to 50 percent.

MR. LUCIA: Another issue that Mark raised you're showing that 30 parking spaces are required and I'm told that that is based on there being 3 offices with ten parking spaces each.

MR. CUOMO: Yes.

MR. LUCIA: Obviously if your actual agreement with the tenants turn out to be different than 3 offices it dramatically affects your parking requirements.

MR. CUOMO: It can't, you can only have 3 offices. In a PO zone, you need 2 spaces per office. We're limited to 3 offices.

MR. LUCIA: Going back to the submittal on the prior variance application Mr. Pizzo mentioned apparently at that time, if my review of the records is correct, you were showing 58 parking spaces as required. I'm not sure where that figure came from, how that relates to this proposal, it's a dramatic shift obviously.

MR. PIZZO: This is a much smaller building.

MR. CUOMO: We shrunk the building. We had to go down, way down.

MR. BABCOCK: Also, it was not a PO zone at the first application so they were using, we asked them to use one per 200 square foot at that application cause there was no regulation for the building when it was in a R-4 zone. That is why that is substantially changed now.

MR. LUCIA: And the building size itself was substantially reduced.

MR. CUOMO: Yes, well strange as it may seem, not sustantially, we had started out with 10,000, we're at 9 as I said before we're at about 9143.

MR. LUCIA: The reason for my question is that it appeared that at that point, you were looking for 80 percent developmental coverage.

MR. CUOMO: At that time we were much higher.

MR. LUCIA: If the building is not that much smaller all that difference is in parking.

MR. CUOMO: Yeah, see the PO zone is very different parking requirement from the other zones.

MR. LUCIA: Just stay with me on the numbers though at that point you had a building that was a little bit larger and you now have 30 parking spaces. At that point you only had 13 spaces provided.

MR. CUOMO: Yeah but we had 4 offices, what was the 13.

MR. LUCIA: You were only providing 13 that is why Mark had questioned the numbers and I'm not sure based on what I am hearing I'm confident in them myself.

MR. CUOMO: Well, you know that is sort of like ancient history, we're working off PO now and PO says ten per office.

MR. LUCIA: I assume developmental coverage the lot size hasn't changed?

MR. CUOMO: Lot size hasn't changed, no.

MR. LUCIA: Building is a little smaller but we're adding 17 parking spaces and reducing developmental coverage by 30 percent.

MR. BABCOCK: It was in an R-4 zone, it was ten percent developmental coverage so then you're allowed 30 this time so we're 20 percent there.

MR. LUCIA: Okay.

MR. BABCOCK: To be very honest with you when they came in the first time we talked to them, the R-4 zone threw us off, we didn't know what regulations to use on an office building in a residential zone so we were playing it by ear also.

MR. LUCIA: I'm just curious.

MR. CUOMO: Michael has a better memory than me. I just couldn't remember.

MR. TORLEY: Were you to drop this down to the required

coverage of 30 percent, how much of the building space would you be losing, why is that not an economical thing to do?

MR. CUOMO: That is up to Mr. Pizzo.

MR. PIZZO: I just need some brief notes here that pertains to looking at it from a business perspective and my question is why 50 percent and not 30 percent and what it comes down to is that doing 50 percent project it's more cost effective. The return on investment creates a profit potential that makes the profit, the project worth doing. Doing a 30 percent working on 30 percent coverage factor, the profitability factor diminishes extremely and also another thing is that to build offices or we're doing actual office space of 6,000 square feet verses perhaps actual offices of 4,000 square feet when you consider elevators, water, sewer, heat, parking lot, all of these factors stay fixed and when you're doing a larger volume of square footage, the cost of construction comes down considerably. So economically and looking at it in a business person's point of view, and in my individual point of view and in my opinion, I believe that you need 50 percent developmental coverage to make the project worth doing.

MR. CUOMO: Also, the building is such a size now with this 40 feet and we have got it down to 20, we're at the point of no return as far as width, this is the average width of a building, any building, a house, a house is usually 50 by 28 and you start getting too small, you just can't function as far as utilities and space requirements.

MR. LANGANKE: What's the length on this?

MR. CUOMO: I would say 128 feet. This will allow an open lobby, you tend to have a lobby in the front there and that will give access to the three, two offices and one on the top.

MR. NUGENT: 4,500 square feet each floor?

MR. CUOMO: Yeah, but one floor won't have offices, it

will have an opening like you have in the other building, we're going to lose a lot to stairs and elevator when you come in.

MR. TANNER: Has there been a traffic study done recently on the roads adjacent?

MR. CUOMO: There has been a traffic study, it hasn't been done that recently but there has been a traffic study done and we have followed it to the New York State standards.

MR. TORLEY: Have you have taken into account the proposed road changes that are coming with the Stewart development?

MR. CUOMO: Well, we don't have access to that, New York State we submitted application to New York State DOT and they said they have no objection to our layout. We would naturally, we could put another one in but we have an approval from the DOT. They have no objection to the project.

MR. HOGAN: Question for either yourself, Paul or Mr. Pizzo, in your terminology you say 3 offices on that plan what does an office mean to you?

MR. PIZZO: Office use I guess, secretarial, professional.

MR. HOGAN: I mean in terms of 3 offices, is that 3 firms or--

MR. PIZZO: It's a speculative building, it's hard to say and so we're saying that in all probability we can do some deals so we can get 3 offices in there but Paul and I had sat down with somebody to rent the project and just one tenant who was the New York Life Insurance Company and Paul could verify that and we're trying to do a deal but we had no zoning to satisfy putting that into a reality. So my intentions would be to do something like that, it would be ideal to get one tenant. However, I'll have the option of possibly putting three in there.

MR. HOGAN: If I understood you then, in your example, if it was one company occupying the building you'd call that one office?

MR. PIZZO: One office, correct.

MR. TORLEY: In regard to George Green sent us copies of the environmental impact statement for the Stewart properties dated February 26, '93, I believe you have that there stating that the State had as part of the development of that area intended or recommends to widen Route 300 to three lanes each direction from 207 to I84, widen 207 to two lanes in each direction from Drury to Brunning Road and from Brunning Road to 300 so if you want to redo the traffic study, you might take a look at that and see when they finish widening the road, what's left of the property.

MR. PIZZO: When is that going to take place, we can't be concerned about that.

MR. TORLEY: Well, I'd like to know for your traffic study I want it projected more than six months down the road. This is not going to occur in the next six.

MR. CUOMO: We have a full environmental impact statement as well as a traffic study and then we also have a planning study, we have a lot of studies.

MR. LUCIA: I'm not sure what you got and on the record I think we're saying that we had a prior traffic study on your prior variance application and that has now been updated.

MR. CUOMO: Well, it was updated during the period of the application but hasn't been updated right till this day. I have the two updates here and we included all the updates in the plan, here is one of them was he asked us to make this entrance here one way and I included that. When we first started with this project, we had this two way and I thought that was rather awkward.

MR. TORLEY: You're going to be within the zoning codes for all your signage et cetera?

MR. CUOMO: Yes, all the setbacks we have at least 3 front yards, all our setbacks are included. The only thing is developmental coverage but the rest of our setbacks, side yards, rear yards whatever we follow. The design of the building I went over that once with you, we sort of designed it to compliment the lot in other words reflect this shape of the lot. Do we have a sign variance?

MRS. BARNHART: I saw when I looked at the plan I saw the sign that was drawn on there and I realized you probably will need a sign variance so you might as well go for it now while you're here instead of having to come back again. Mike, do you have any figures on that?

MR. TORLEY: Double sided sign.

MR. CUOMO: It's 3 1/2 by eight. The poles will make it 7, 3.57.

MR. TORLEY: We don't need the exact figure now.

MR. BABCOCK: We should.

MR. CUOMO: It's 24.5 square feet one side so we'd want both sides, I think we're over.

MR. BABCOCK: You're only allowed 10.

MR. CUOMO: We're only allowed ten so I guess we're over.

MR. BABCOCK: How much do you have total?

MR. CUOMO: 24.5 times 249.

MR. BABCOCK: So we're going to modify this to be 49 square foot sign, they are allowed ten square feet so they are going to ask for a variance of 39 square feet.

MR. CUOMO: Yeah, we'll need that.

MR. LUCIA: Is that one sign on the property?

MR. CUOMO: Yes.

MR. TORLEY: No building signs?

MR. CUOMO: I don't know.

MR. PIZZO: Not at this time.

MR. BABCOCK: If they have an individual tenant that comes in, he will have to come in for an individual sign variance.

MR. CUOMO: New York Life people we talked to, they have a lot of requirements these people.

MR. NUGENT: I know you fellas have a lot of reading to do in this little packet that Mr. Pizzo gave us. Is there any further questions for this evening? We can spend a little time reading it before our next meeting. Familiarize ourselves with all the information. Are there any other questions that you would like to ask the applicant? If none, I would like to have at this time have a motion.

MR. TORLEY: I move we set them up for a public hearing.

MR. LANGANKE: I'll second that.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. HOGAN	AYE
MR. NUGENT	AYE

MR. TORLEY: One of the the things we're required or your supposed to do is to take into account actual dollar values when you're requesting some of these area variances, particularly developmental coverage. You stated that without the variance going from 30 to 50% developmental coverage the project would not be economically viable. When you come in for the public

March 8, 1993

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hearing, I'd like to see some numbers on that to defend that position.

MR. PIZZO: All right, I'll provide that for you.

MR. LUCIA: When you come back to the board, bring some photographs. Do you want additional photographs. If you would bring along copy of your deed and title policy and I'll give you a copy of Section 267 B of the Town Law the variances that you are looking for all area variances.

MRS. BARNHART: I gave him a copy of that already.

MR. LUCIA: When you come back if you would speak to those 5 specific issues.

MR. PIZZO: Thank you very much.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

Appeal No. 4

Request of JOHN PIZZO

for a VARIANCE of
the regulations of the Zoning Local Law to
permit construction of a professional office building
with more than the allowable developmental coverage and
a freestanding sign with more than the allowable sign area;
being a VARIANCE of

Section 48-12 - Table of Use/Bulk Regs.-Col. L,N

for property situated as follows:

North side of NYS Route 300 (Temple Hill Road) at the
intersection of NYS Route 207, known and designated
as New Windsor tax lot Section 4-Blk. 1 - Lot 11.1.

SAID HEARING will take place on the 22nd day of
March, 1993, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

JAMES NUGENT
Chairman

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Variance of

John Pizzo

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#93-4.

-----X
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On Mar. 10, 1993, I compared the 14 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
10th day of March, 1993.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984066
Commission Expires July 15, 1993

(TA DOCDISK#7-030586.AOS)

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

-----X
In the Matter of the Application of

DECISION DENYING
USE/AREA AND SIGN
VARIANCES

JOHN PIZZO

#89-47.
-----X

WHEREAS, JOHN PIZZO, 31 Dogwood Hills, Newburgh, N. Y. 12550, has made application before the Zoning Board of Appeals for a use, area and sign variances for the purposes of:

Construction of a professional office building on the southeast side of Old Route 207 in an R-4 zone; and

WHEREAS, a public hearing was held on the 23rd day of October, 1989 before the ZBA at the Town Hall, 555 Union Avenue, New Windsor, New York; and

WHEREAS, Applicant was represented by Daniel J. Bloom, Esq., 530 Blooming Grove Tpk., New Windsor, N. Y.; and

WHEREAS, the application was opposed by one adjacent property owner who was concerned about the impact of traffic on the health, safety and welfare of himself, his employees and his business; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter;

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant has applied to the ZBA for a use variance to construct a professional office building in an R-4 zone, and for area variances to vary the bulk regulations with regard to a variance for 59% developmental coverage and 11 parking space variances, and for a 21 s.f. sign area variance.

3. The applicant failed to present any "dollars and cents" proof that the subject lands cannot yield a reasonable return if used only for purposes allowed in the R-4 zone.

4. The applicant failed to present any proof of the following:

- (a) The amount paid for the land in question.
- (b) The present market value.
- (c) Annual land and school taxes.

(d) The unpaid balance of mortgages and other incumbrances.

(e) The annual income from the land in question for each and every use permitted in the R-4 zone.

(f) The fair market value of the subject property at the time the applicant purchased it; and the amount of the premium, if any, over fair market price attributable to the contingency in the purchase contract regarding obtaining a variance; or the amount of the discount, if any, received by the applicant for waiving that contingency.

(g) The rate of return earned by similar or like property in the community.

5. The applicant's real estate expert, Paul Capicchioni, presented his conclusory opinion that the "only and best use" of the property was as a professional office. He failed to present any "dollars and cents" proof of the foregoing issues, upon which this Board must predicate its decision.

6. The applicant presented evidence that the prior owner was unable to sell the property for residential purposes (until the sale to the applicant, since the applicant must be charged with knowing the restrictions on its use in accordance with the R-4 zoning.

7. The applicant also presented evidence that he offered the property for sale, subsequent to his purchase and received no offers to purchase the same for residential purposes. There was no evidence presented that the applicant received any offers to purchase the same for any purpose.

8. There was evidence presented that there had been two separate takings for highway rights of way, of lands bordering the subject property. There was no evidence presented that these takings were not for value, or that the awards to the then owners of the subject parcel had not compensated them for the diminished residual value of the subject parcel (since the same ultimately became bounded on all sides by highways and was zoned R-4).

9. The evidence indicated that the proposed professional office use would partly alter the essential character of the locality which presently is devoted to mixed uses: residential, professional office, light manufacturing, warehouse and distribution and retail sales.

10. The evidence presented by the applicant indicated that the subject parcel is unique, by virtue of its triangular configuration and its being bounded on all three sides by roads.

11. The evidence presented by the applicant indicates that the applicant's hardship was self-created. Prior to purchasing the subject property, the applicant was aware that the same was located in an R-4 zone. The applicant's contract to purchase the property was made subject to his securing a variance thereon from the ZBA. The applicant, acting upon advice of his attorney and surveyor,

elected to waive this contingency and purchased the property without securing the variance.

12. The evidence indicates that the applicant had knowledge of the R-4 zoning applicable to the subject parcel prior to purchasing the same, and contemplated a non-permitted use of the parcel as appears from the contract contingency.

13. The evidence indicates that the applicant knowingly acquired title to the subject property for a use prohibited by the zoning local law and thus created his own hardship.

WHEREAS, the Zoning Board of Appeals of the Town of Windsor makes the following conclusions of law in this matter:

1. The evidence failed to indicate that the land in question cannot yield a reasonable return if used only for purposes allowed in the R-4 zone.

2. The evidence shows that the application as presented will partly alter the essential character of the locality which is devoted to mixed uses.

3. The evidence indicates that the plight of the applicant is due to unique circumstances.

4. The evidence indicates that the hardship is self-created.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a use variance to the applicant for construction of a professional office building in an R-4 zone.

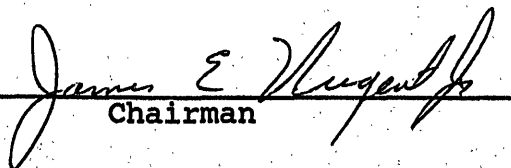
BE IT FURTHER

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY as moot the area and sign variances sought by the applicant in connection therewith.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and the applicant.

Dated: November 13, 1989.


Chairman

(ZBA DISK#1-061785.FD)

Kirchner, Karl F.
61 1/2 Little Britain Road ✓
New Windsor, NY 12550

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P.O. Box 1449
Newburgh, NY 12550

City of Newburgh
Newburgh Water Supply
c/o City Comptroller
City Hall
Newburgh, NY 12550

Sloan, Warren Jr.
P.O. Box 4545
New Windsor, NY 12550

Duggan & Crotty Temple Hill Co.
343-345 Temple Hill Rd. ✓
New Windsor, NY 12550

Freedom Road Realty Associates
335 Temple Hill Rd.
New Windsor, NY 12550 ✓

Helmer, William F. ✓
Grey Beech Lane
Pomona, NY 10970

Rossi, Olympia ✓
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Newburgh, NY 12550

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